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ABSTRACT

This packet is designed to provide the basic tools for lawyers who may wish to bring suit in Federal court to compel the expenditure of Title I funds in a lawful manner. It covers (1) some general information on Title I purposes and procedures, (2) the requirements for information gathering and analysis, (3) a sample complaint, (4) a memorandum on standing and jurisdiction, (5) the information comparability requirements, (6) the legal status of program guides, (7) some sample interrogatories, (8) the audits and investigations, (9) some types of relief granted, and (10) community participation. A related document is ED 047 403. (Photographs and pages 30-31, 218, 234, and 285 may reproduce poorly.) (JF)

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Title I Litigation Materials

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A LITIGATION PACKET FOR
TITLE I OF THE ELEMENTARY
AND SECONDARY EDUCATION ACT

Prepared by the
Center for Law and Education
at Harvard University
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Cambridge, Massachusetts 02138

The Center for Law and Education is an inter-disciplinary research institute established by Harvard University and the United States Office of Economic Opportunity to promote reform in education through research and action on the legal implications of educational policies, particularly those affecting equality of educational opportunity.

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Revised Edition, November 1972

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I. GENERAL MEMORANDUM ON TITLE I ISSUES AND TARGET SELECTION

Mark Yudof

I.

GENERAL MEMORANDUM ON TITLE I

Title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C., Sec. 241] signified a revolutionary change in the role of federal government in American education.[1] For the first time, the federal government expressly took the responsibility for meeting the special educational needs of children from low-income families. In the 1968-69 school year, nearly two-thirds of all school districts and some nine million students in both public and private schools, participated in Title I programs which cost a total of $1.123 billion.[2] Unfortunately, however, there is mounting evidence that there is a massive failure to carry out the statutory mandate of Title I,[3] and there are few signs that responsible governmental authorities will act voluntarily to correct this failure. Under these circumstances, litigation appears to be the most viable approach to immediate reform, and indeed, such suits may highlight the inability of the present system of education to deliver adequate educational services to the poor.

This litigation packet is designed to provide the basic tools for lawyers who may wish to bring a suit in federal court to compel the expenditure of Title I funds in a lawful manner. While responsibility for the administration of Title I funds is divided among the U.S. Office of Education, state educational agencies, and local educational agencies, general accountability for the misuse of funds exists at all three levels, and all should be joined as defendants in litigation seeking the reformulation of administrative criteria, closer scrutiny of expenditures, and compliance with administrative and statutory standards.

Title I provides that the U.S. Commissioner of Education shall make lump sum payments to state educational agencies, who, in turn, shall approve and fund projects for educationally disadvantaged children proposed by local school districts. In their project application for Title I funds, the local educational agencies must set forth their plans in detail, including a budget, identification of target areas and plans for evaluation of the project. Money is available for a broad range of projects, but under the law, any project must be compensatory in character. Applications are not made to the Office of Education, but to the state department of education, which has the duty of ensuring that the projects, as planned and as implemented, conform to all applicable regulations. This state responsibility includes establishment of standards and procedures for accounting, provision for annual audits of state and local expenditures, investigation of complaints, and periodic evaluation of the effectiveness of local projects. [See, e.g., 45 C.F.R., Sec. 116.48]

The Office of Education, aside from having primary responsibility under the Act for promulgating regulations and guidelines, also must satisfy itself through periodic audits of state and local expenditures, that the law and regulations are being followed. Where violations are discovered, the Commissioner of Education may withhold funds, reject state applications or seek the return of the illegally used monies. [20 U.S.C., Sec. 241]

Purposes of Title I

In enacting a novel federal statute which imposed federal educational priorities upon existing state and local structures, Congress, not surprisingly, created a law with diverse, and, at times, inconsistent objectives. However, from a limited litigation perspective, the purposes of Title I may be accurately represented as those set forth in the declaration of policy which precedes the substantive provisions of the Act:

> In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance...to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children. [20 U.S.C., Sec. 241a]

In other words, while the Act was enacted in recognition of the special needs of low-income children and of districts with concentrations of such children, the purpose was to provide financial assistance to districts of high poverty concentration in order to meet the needs of all educationally deprived children. This means that a school district establishes its eligibility for Title I funds on the basis of the number of low-income children residing in the district, but that the programs financed by these grants are open to all students whose achievement levels fall below that "appropriate for children of their age," even if they are not poor. Congress apparently assumed a high correlation between educational failure and poverty, and, in order to attack this conjunction, designed the Act so that the greater the overlap in a school district of poor children and educationally disadvantaged children, the greater the federal expenditure per eligible child.

The Basic Aid Formula

The maximum amount which a local school district is eligible to receive is an amount equal to 50% of the average per pupil expenditure in the state* multiplied by the number of children, ages five to seventeen, whose families have an annual income of less than $2000, or whose families have an income in excess of $2000 due to payments from an approved aid to dependent children program, or who are "living in institutions for neglected or delinquent children." [20 U.S.C., Sec. 241d] The formula may be expressed by the following equation:

$$.50P\ (I+D+N) = E$$

Where: P = Per Pupil Expenditure in the State
I = Number of Children in Families with less than $2000 in Income
D = Number of Children in Families receiving Aid to Dependent Children with Incomes in excess of $2000
N = Number of Neglected or Delinquent Children in Institutions
E = Maximum Entitlement of a Local School District

The allocation to which a state is entitled is the sum of the entitlements of the local school districts within a state, plus certain monies for state-operated institutions for the handicapped, delinquent, or neglected and for the education of migrant children. [20 U.S.C., Sec. 241d] While maximum entitlement is calculated according to the above formula, Congress has never appropriated a sum of money for Title I which even approaches the authorized level of expenditure of $2.7 billion.[4] Under these circumstances, the Act provides that the allocation to each local district should be "reduced ratably" such that each will receive the same proportionate share of its maximum entitlement. [20 U.S.C., Sec. 241h] Furthermore, Congress has inserted in recent Title I appropriation bills the proviso that no district may receive less than 92% of the amount of Title I payments it received the previous year.

---

*Or the national average if it is higher

Statutory Criteria for the Approval of Title I Applications

While the state educational authorities have the responsibility of approving or disapproving the local Title I project applications, the states must make their determinations on the basis of criteria established by the Act itself and such "basic criteria as the Commissioner may establish." [20 U.S.C., Sec. 241e] There are eleven requirements for Title I projects stated in the Act itself. The most important are:

> *The projects must be "designed to meet the special educational needs of educationally deprived children in the school attendance areas having high concentrations of children from low-income families," and "of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting those needs..."

*The local educational agency must make provision for providing educationally deprived children in private schools, including parochial schools, with "special educational services and arrangements." However, the control of funds for private schools and the title to all property purchased with the funds must be in a public agency.

*In the case of applications for funds for planning, the planning must be directly related to Title I programs, and the funds must be needed because of the "innovative nature of the program" or "because the local educational agency lacks the resources necessary to plan adequately."

*Provision must be made for evaluating the effectiveness of the program in meeting the special educational needs of the eligible children.

*The local educational agency must make periodic reports and keep records which will enable the state educational agency to verify the reports and to fulfill its obligations to the Commissioner of Education.

*Procedures must be adopted for acquiring and disseminating information to teachers and administrators with regard to "promising educational practices" developed in the course of Title I projects. [20 U.S.C., Sec. 241e]

Administrative Criteria for the Approval of Title I Projects

While the statutory criteria embodied in Title I for the approval of projects are useful as broad articulations of federal policy, the politically sensitive task of drawing up concrete standards, which would relate federal priorities to the states and to local school districts, fell to the Commissioner of Education.[5] With few exceptions, the Commissioner responded to this responsibility by promulgating regulations and guidelines which appear to be consistent with the Act's compensatory character. Nonetheless, the application of these criteria is marked by a timidity, a lack of adherence to purposes, and a sloppiness which necessitates resort to the judicial process. There is mounting evidence that local and state educational agencies are approving projects which are unrelated to the needs of poor children, ignoring instances of non-compliance with guidelines and regulations, failing to conduct periodic audits which are necessary to monitor Title I expenditures, and keeping inadequate records of their activities; and that the Commissioner of Education has not pressed the states for compliance or employed the ultimate sanction of cutting off funds to states that do not comply substantially with the Act and the regulations.[6] In this regard, the findings of the HEW Audit Agency in its report on Indiana are typical:

> Our examination disclosed that the State Agency did not exercise adequate control over funds of approximately $33.7 million made available to local educational and other agencies. As a result, there is no assurance that the funds were expended for the purposes intended by Title I of the ESEA. The local agencies did not maintain documentation to support expenditures purportedly incurred for approved project purposes nor submit meaningful reports needed by the State agency for fund management purposes. We found no evidence that the State Agency enforced compliance with requirements pertaining to submission of accurate reports on a timely basis or for maintaining and submitting adequate documentation. Financial Reports submitted to the State Agency and which we reviewed disclosed conditions that should have alerted it to the need for immediate corrective action. Instead, the conditions noted by us for fiscal year 1966 were continued during fiscal year 1967. Furthermore, in the absence of evidence that the funds were expended for purposes intended by Title I of ESEA, there is no assurance that the Federal funds were not used to supplant rather than supplement those of the State and local agencies.[7]

The remaining portions of this essay will focus on four of the most significant administrative criteria for the distribution of Title I funds: the requirement that federal funds supplement and not supplant local funds; the requirement that funds be concentrated on a limited number of eligible pupils; the requirement that funds be concentrated on target areas with high concentrations of low-income children; and the requirement that Title I funds be used for school construction and equipment purchases within narrowly defined limits.

1. Supplement, Not Supplant:

The most important criterion which the Commissioner of Education promulgated for Title I projects, and the criterion upon which most suits should focus, is the requirement that federal appropriations supplement existing state and local expenditures for education, and that the federal funds not be used as a substitute for local funds in order to provide services which would or should be provided without federal assistance. In other words, federal payments must be additive, and purchase educational services for the underprivileged which are not available to the local school population at large. These principles are embodied in a guideline which, although hardly a model of clarity,[8] is crucial to the achievement of the Acts' purposes:

> The instructional and ancillary services provided with State and local funds for children in the project areas should be comparable to those provided for children in the non-project areas, particularly with respect to class size, special services, and the number and variety of personnel. Title I funds, therefore, are not to be used to supplant state and local funds which are already being expended in the project areas or which would be expended in those areas if the services in those areas were comparable to those for non-project areas. This means that services that are already available or will be made available for children in the non-project areas should be provided on an equal basis in the project areas with State and local funds rather than with Title I funds.[9]

While there is a paucity of data on the distribution of Title I funds within school districts, and even less data on the level of services provided in non-Title I schools, the fragmentary information available indicates that school administrators are ignoring the requirement that federal funds not be spent in place of local and state funds.[10] Title I funds are being used for construction, teacher salaries, libraries, and other programs and facilities which the school district would normally purchase with local and state funds.[11] In many areas, particularly the South, Title I payments are being used to provide poor schools with high concentrations of economically underprivileged Negro students with facilities and services which the local educational agency has already provided the white schools in the district.[12] In other areas, particularly in the large cities, local school boards have made little effort to equalize per pupil instructional costs between target and non-target schools; teachers in target schools are less qualified, less experienced, and, most importantly, lower paid. State officials apparently make no effort to determine whether a district is providing equal levels of educational services in Title I and non-Title I schools.[13] Thus, from present indications, at the most vital point in the administration of Title I, at the point where the federally established interest in compensatory education must be superimposed on local priorities, local, state and federal officials have disregarded the law. Aside from the vindication of the federal interest, compelling compliance with the supplement-supplant requirement would provide a means of attacking intra-district discriminations against the poor in the allocation of educational resources, a result with implications far beyond the parameters of the Act itself.

2. Concentration of Funds Per Child

The regulations and guidelines provide that Title I resources must be concentrated "on those children who are most in need of assistance", and that "decisions should be made in terms of the effectiveness of providing comprehensive services to a limited number of children in a few groups as opposed to the ineffectiveness of spreading diluted services over all eligible children in all groups."[14] Thus:

The greater the concentration of effort, as indicated by investment

> per child, the greater the likelihood that the program will have a significant impact on the children in the program. The investment per child on an annual basis for a program of compensatory educational services which supplement the child's regular school activities should be expected to equal about one-half the expenditures per child from state and local funds for the applicant's regular school program.[15]

These requirements apparently are being widely disregarded. Responding to political pressures and a desire to help as many children as possible, school administrators have spread Title I funds over large groups of eligible children.[16] In some instances projects have been designed to meet the needs of the student body or school district at large, including ineligible children who are not educationally deprived.[17] As a result, in 1966-67 the average per participating pupil expenditure of Title I funds was $99, a sum which the Council on the Education of Disadvantaged Children characterized as "hardly enough to make a significant difference."[18]

> In consequence, while the young beneficiaries might have a hot lunch for the first time, all their other handicaps go untouched, and Title I funds -- while spent for entirely worthy purposes -- have simply failed to achieve the overall purpose of the legislation.[19]

The per pupil concentration requirements which the Commissioner has promulgated are essential to the achievement of the compensatory purposes of the Act. The problems, once again, are those of enforcement and compliance.

3. Concentration of Funds on Target Areas:

Section 105(a)(1) of Title I provides that projects must be "designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low income families." [20 U.S.C., Sec. 241e] The U.S. Office of Education has interpreted this section to mean that the targets for Title I programs must be school attendance areas in which the percentage of low income children is as high or higher than the percentage of low income children in the school district as a whole.[20] In turn, school attendance areas have been interpreted, more out of administrative convenience than statutory compulsion, as being schools, and thus, Title I efforts have focused on concentrations of eligible children in target schools -- thereby creating school-based programs.

The concentration requirements, in responding to the greater needs of poor children who attend schools where their peers are poor, and in explicitly recognizing the class and therefore racial segregation that characterizes American education, contribute to the continuance of such isolation. School systems and schools, in effect, are rewarded for remaining segregated. Conversely, it has been asserted that education for low income children in schools largely composed of poor children is more expensive than the education of the same children in predominantly middle class schools; poor children in low income schools may "need" more educational services than other poor children; and districts with high concentrations of children from low income families are likely to have a lower real estate tax base and thus to have less funds available for educational purposes.

In an effort to reconcile the competing values of integration and concentration the U.S. Office of Education promulgated the requirement that

Title I services follow an eligible child who is transferred from a target to a non-target school. The problem, once again, is non-enforcement. Whether from a bureaucratic desire to avoid the trauma of creating non-school based programs or from a discriminatory intent, local educational agencies have disregarded this requirement, and state educational agencies and the U.S. Office of Education have done nothing to alter this situation.

In districts that are under a compulsion to desegregate or that have done so voluntarily it seems likely that the schools will be integrated in fact, or they will be attended by black (or Indian, Puerto Rican, Mexican-American, etc.) students only as the white students drop out of the public school system. In either event, there will not be schools with concentrations of poor children which are higher than those in other schools in the district, since most of the poor children are black, and therefore, there will be no identifiable target schools. Under such circumstances, the requirement that Title I services follow the child is meaningless. Targets for Title I funds will have to be selected on a basis other than the relative concentration of children from low income families, and local educational agencies are apt to use this discretion to recreate segregation. In the most blatant instances, the use of Title I funds to further resegregation may be attacked under the court decree mandating integration. For example, in Alachua County, Florida, a previously black school was converted into a "Title I Center" and poor black children were bused from other neighborhood-based schools to this

Center. Elsewhere, Title I funds have been employed to equip all-white private academies.

In many instances local educational agencies that are under a compulsion to integrate their schools have resorted to somewhat more subtle devices to perpetuate segregation. Under the guise of educational expertise, local boards have established segregated tracks within schools, ostensibly to permit the concentration of compensatory educational services, but in reality to recreate racial isolation. In this situation, local educational agencies must be compelled to administer Title I programs in a reasonable and non-discriminatory fashion which is consistent with the educational imperative of providing supplemental educational services to poor children. In effect, this means that Title I services must be fashioned in such a manner that they are minimally restrictive of the right of minority children to attend integrated classes. For example, flexible tracking, where grouping is done on a subject basis, may be permissible whereas totally segregated tracks, with complete separation of the races, may be impermissible. After school remedial reading classes or tutorials also may be permissible. In other words, given a choice between a desirable Title I service that perpetuates segregation and one that does not, local boards must choose the service that least interferes with integration. A contrary approach would violate Title I regulations, Title VI of the Civil Rights Act of 1964, the 14th Amendment, and, quite likely, the very order under which the district was desegregated.

Wholly apart from consideration of the impact of concentration on integration, many local educational agencies are not targeting Title I funds to the schools in the district that have average concentrations of poor children that are higher than the average of such children for the district as a whole. For example, in the Bernalillo School District in New Mexico, five of the seven schools in the district qualified for Title I programs even though only two schools had higher than average concentrations of low income children. Again, in Easton, Pennsylvania, the district-wide average percentage of poor school children was 12%, and only four of the ten target schools exceeded this average percentage (indeed, the average percentage of poor children in the target schools was less than 12%).* Furthermore, even where the targeting appears to conform with the regulations, in some instances discriminatory means of identifying poor children are employed. For example, reliance on Aid For Dependent Children statistics may discriminate against poor Mexican-American children, whose families, for whatever cultural or political reason, are less likely to receive such welfare payments than other minority groups.

4. Construction Projects and Equipment Purchases

The Commissioner of Education has determined that Title I programs should be conducted in existing facilities wherever possible since the construction of new school facilities is deemed to be the responsibility of the local school districts. Nonetheless, in instances of extreme need, Title I funds may "be used for construction...[in order to] meet the highest priority needs of educationally deprived children..."[21]

*See Easton, Pennsylvania, Title I Project Application 1969-1970.

Furthermore, purchases of equipment are limited "to the minimum required to implement approved Title I activities or services."[22] Evidently, this emphasis on operational expenditures is a corollary to the per pupil concentration; its thrust is to prevent local districts from stocking inventories for school-wide or district-wide use. On the basis of the available data, there are clear indications that the local educational agencies are failing to comply with the equipment and construction restrictions.[23] Much of the expenditures in this area are straightforward supplanting of local funds. In some instances, Title I funds are used for construction, mobiles, and renovations which perpetuate segregation. In part these violations may stem from the ambiguity of the regulations and guidelines, but again, staunch federal and state enforcement is lacking.

FOOTNOTES

1. See, e.g. Meranto, The Politics of Federal Aid to Education in 1965: A Study in Political Innovation, 1967; Tiedt, The Role of the Federal Government in Education, 1966.

2. The National Advisory Council on the Education of Disadvantaged Children, Fourth Annual Report: Title I-ESEA: A Review and A Forward Look, 1967, pp. 1, 10-11 [Hereinafter cited as Fourth Annual Report].

3. Report by Ruby Martin of the Washington Research Project of the Southern Center for Studies in Public Policy and Phyllis McClure of the NAACP Legal Defense and Education Fund, Inc., Title I of ESEA: Is It Helping Poor Children?, 1969. [Hereinafter cited as Title I Study].

4. Fourth Annual Report, pp. 10-11. See generally Bailey and Mosher, ESEA: The Office of Education Administers a Law, 1968, p. 43, [Hereinafter cited as Bailey and Mosher].

5. See Bailey and Mosher at 109-119.

6. According to one study, instances of federal action against states for misuse of Title I funds are rare:

> Massachusetts returned $692 which had been spent on staff salaries prior to approval of local district's project. Wisconsin has returned $43,653 which represented salaries charged to Title I in Milwaukee when only a portion of staff time was spent on Title I activities. Two federal audits of Chicago, in which auditors recommended that the Office of Education seek recovery of approximately $1.2 million, are still being negotiated by State, local and Federal officials. The Office of Education, however, did ask and receive $249,642 from Chicago which represented interest earned on Title I funds deposited in the school system's bank account. With these exceptions there has been no federal action against State and local districts which have used Title I funds contrary to the law and regulations. (Title I Study, pp. 96-97).

7. HEW Audit Agency Report on Audit of Title I of the ESEA of 1965, State of Indiana (Emphasis added). See also, e.g., HEW Audits of Colorado, Georgia, Illinois, Louisiana.

8. "First Alcalde: "Might I know the point of all this rigamarole?"

> The Secretary: "It's intended to get them used to that touch of obscurity which gives all government regulations their peculiar charm and efficacy. The less these people understand, the better they'll behave."

(Camus, Albert, State of Siege)

9. *ESEA Title I Program Guide Number 44*, Guideline 7.1, March 18, 1968 (Emphasis added).

10. Title I Study; HEW Audit Agency Reports on Title I of the ESEA of 1965.

11. Title I Study, supra; See, e.g., HEW Audit Agency Reports of Mississippi, Wisconsin and Michigan.

12. Title I Study at 29-35; HEW Audit Agency Reports.

13. *Ibid.* at 29.

14. *ESEA Title I Program Guide Number 44*, Guideline 4.2, March 18, 1968.

15. *ESEA Title I Program Guide Number 44*, Guideline 4.7, March 18, 1968.

16. Fourth Annual Report at 14.

17. Title I Study, supra; HEW Audit Agency Reports. The following example is one of the more egregious instances of a violation of the per pupil concentration requirements:

> Our review of local agency equipment purchases disclosed that 23 Parish School Boards [in Louisiana] had "loaned" equipment costing $654,624 to schools that were ineligible to participate in the Title I program. We find no basis for an expenditure of funds for schools that do not meet the criteria established for eligibility under Title I. These funds are provided for special projects to help a specific group of underprivileged children and all expenditures must be for the purpose of accomplishing the stated goals of the approved project.
>
> Our site visits disclosed that some of this equipment was set in concrete or fastened to the plumbing. Much of the equipment had been at the ineligible school since its acquisition and in some instances was delivered by the vendor to the ineligible school. We believe that circumstances as noted above preclude any classification of equipment "on loan." We are recommending that the cost of the equipment "loaned" to ineligible schools be reimbursed to the Federal government on the basis that it is general aid and prohibited by the law and since its return to a central location would create an excessive surplus of unneeded materials. [HEW Audit Agency Report of Louisiana].

18. Fourth Annual Report, at 14-15. See also, Bureau of Compensatory Education Program Evaluation, California State Department of Education, "Evaluation of ESEA Title I Projects of California Schools -- Annual Report 1967-68, in which it is concluded that Title I projects spending less than $250 per child generally fail to affect achievement significantly.

19. Ibid.

20. ESEA Title I Program Guide Number 44, Guideline 1.1, March 18, 1968.

21. ESEA Title I Program Guide Number 44, Guideline 5.7, March 18, 1968.

22. ESEA Title I Program Guide Number 44, Guideline 5.6, March 18, 1968.

23. See, e.g. HEW Audit Agency Reports on Tennessee, Connecticut, Georgia, Michigan and Alabama; see generally Title I Study, Chap. IV.

TITLE I ESEA

SELECTING TARGET AREAS

Handbook for Local
Title I Officials

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Elliot L. Richardson, Secretary

Office of Education
S. P. Marland, Jr., Commissioner

PREFACE

Since 1965, local education agencies (LEA's) have selected school attendance areas in their districts to receive services under title I of the Elementary and Secondary Education Act. Methods used in past years varied from sophisticated computer analysis of census to intuitive decisions.

As title I progressed, regulations were rewritten and enforcement procedures adopted at both the Federal and State levels to ensure that the money helped only those children for whom it was authorized by Congress. To some LEA's these regulations were added complications; to others, they were welcome guidelines. In either case, LEA's have a responsibility to comply with such regulations.

This handbook is designed to help school officials interpret the title I regulations affecting selection of target areas and to apply them in a manner most appropriate to their particular circumstances. It should help officials designate eligible attendance areas and select project areas, using the best available data.

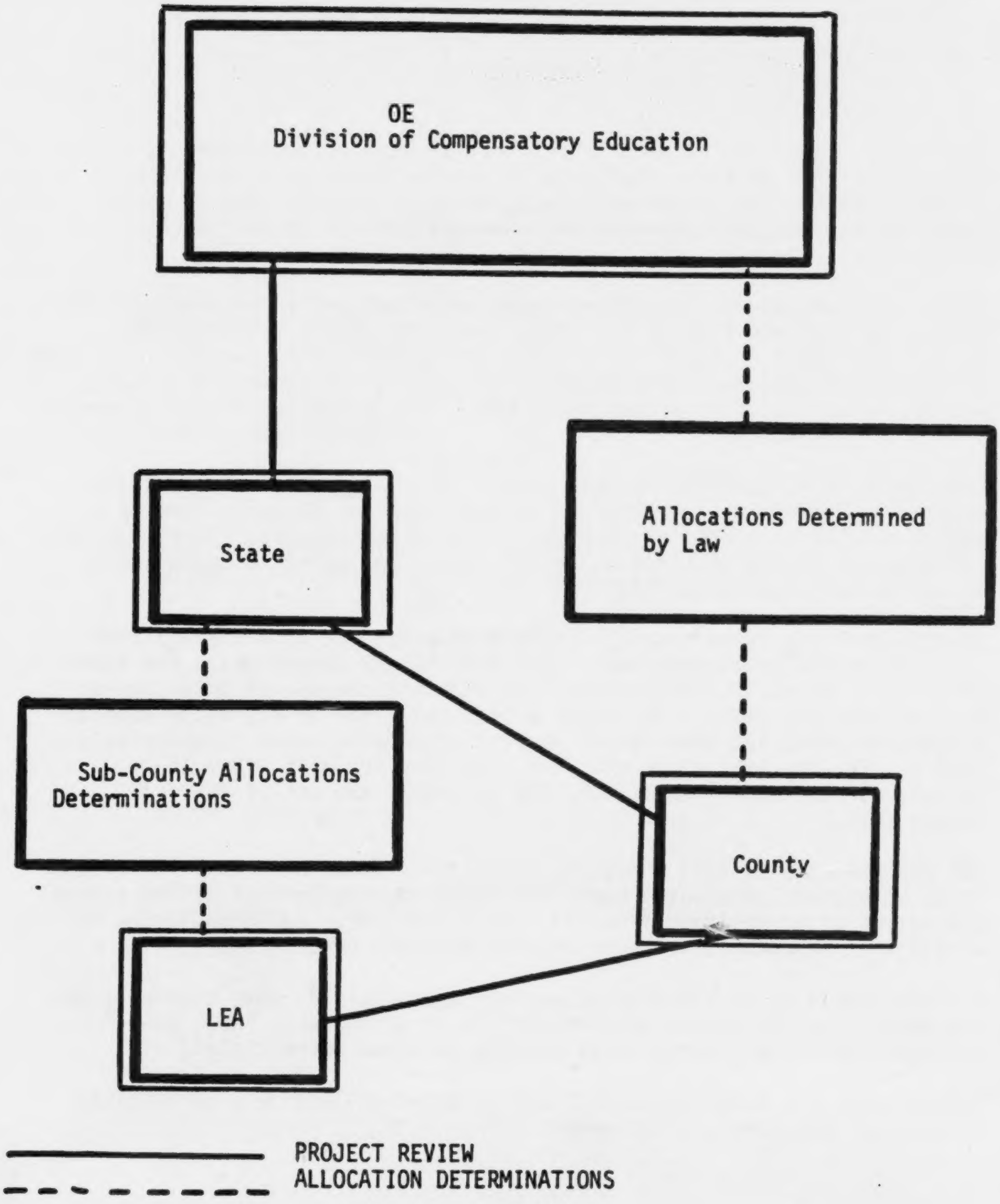
The handbook can serve both as a reference guide and as a step-by-step guide to selecting target areas. For the 1971-72 school year, the handbook should be particularly helpful in refining the use of data sources used in previous years. The section that tells how to translate data to attendance areas and then how to compare attendance areas is especially useful. For the 1972-73 school year, the handbook will serve the additional function of explaining the geography and use of the 1970 census data.

For the purposes of this handbook, an eligible attendance area is defined as an attendance area which meets the legal requirements of having a high concentration of children from low income families. Children living in an eligible attendance area may receive services under title I.

A project area is an eligible attendance area that has been chosen by the LEA to be a participating area for the title I program. Thus, only children living in project areas receive services under title I.

Target area is a term frequently used to refer collectively to eligible attendance areas and project areas.

TITLE I DOLLARS


OE
Division of Compensatory Education
State
Allocations Determined by Law
Sub-County Allocations Determinations
County
LEA
PROJECT REVIEW
ALLOCATION DETERMINATIONS

GUIDELINES FOR THE SELECTION, COLLECTION, AND TRANSFORMATION OF THE DATA USED IN SELECTING TARGET AREAS

Determining the eligible attendance areas for title I services involves eight steps:

1. Selection of sources of data for determining concentrations of children from low-income families
2. Collection of the necessary data from the sources chosen
3. Transformation of the data to correspond with the school attendance areas
4. Determination of weighting factors among the data sources (if multiple sources are used)
5. Combination of the data on children from low-income families (using the weighting factors if necessary) and determination of both the number of children from low-income families and the percentage of such children residing in each attendance area
6. Ranking attendance areas both by percentages and by numbers of children from low-income families
7. Determination (for the district as a whole) of the average number of children from low-income families and the average percentage of children from such families
8. Determination of the eligible attendance areas from among those that have either percentages or numbers of children from low-income families greater than the district average

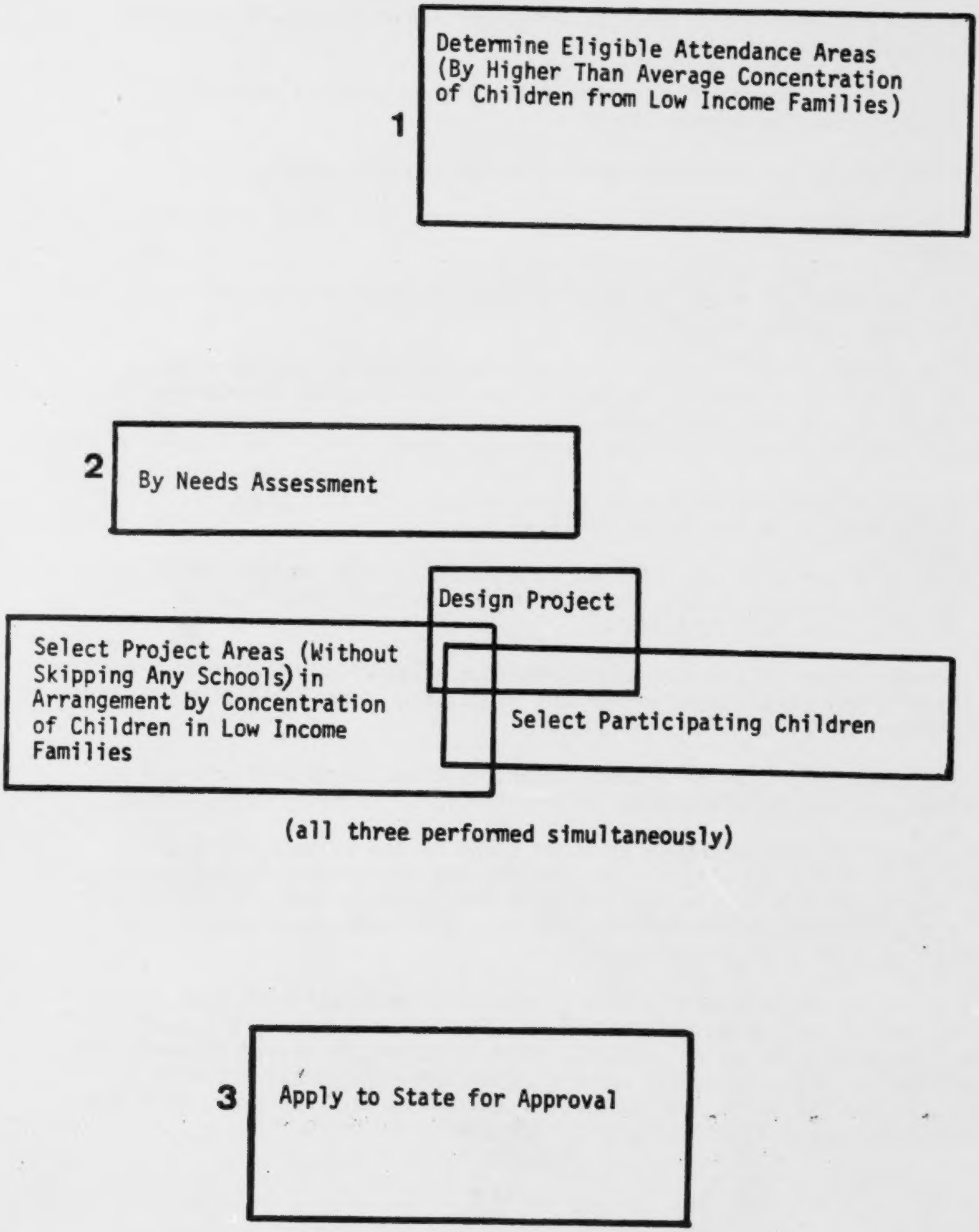
A ninth step, selection of project areas, involves needs analysis and is mentioned in this handbook only to help interpret relevant regulations.

This chapter discusses the first three steps in the selection process. There are a number of alternative data sources; major ones include data from the census and Aid to Families with Dependent Children (AFDC). Secondary sources include health, housing, free lunch, employment statistics, and a local survey.

Each LEA must choose a single data source or a combination of data sources as its target area selection criterion. The census data are the best source and, in using other sources, their deficiencies should be noted and complementary sources used if needed. Each LEA must choose its data sources according to its own circumstances, being sure, however, that the selection criteria is consistent for the entire district.

THE SELECTION PROCESS

(within the LEA)



1 Determine Eligible Attendance Areas (By Higher Than Average Concentration of Children from Low Income Families)

2 By Needs Assessment

Design Project

Select Project Areas (Without Skipping Any Schools) in Arrangement by Concentration of Children in Low Income Families

Select Participating Children

(all three performed simultaneously)

3 Apply to State for Approval

Census Data

The Census of Population and Housing is the most complete demographic data source available on a national basis. In addition to counts of people, it includes data on ethnic groups, income levels, employment, quality of housing, numbers of children, and even a special calculation of poverty based on both family size and income.

There are four basic steps for using census data in the selection of target areas:

1. Decide which data elements should be used.

2. Understand the geography of the census, especially of your district.

3. Obtain the data for your district.

4. Convert the data from census geography to attendance area geography.

Some of the most useful census data elements related to income levels include: (a) the number of families with income below $2,000, $3,000, or $4,000; and (b) the number of families below the poverty line determined by the Social Security Administration (a variable income level depending on both income and number of children in the family). To calculate the number of children from low income families using these data elements, multiply the total number of children in the geographic area by the percentage of low-income families.

The census data are released in phases. The first release, in early 1971, included detailed data only for population counts and housing conditions. With this "first count" data, a school official can determine numbers of children, ethnic background, family status, and housing conditions, but not income levels or employment. All the data available in the first counts are from 100 percent samples.

A later phase of census data, called "fourth count," includes counts of data items for which 5 percent and 15 percent samples were used. The fourth count includes income data, employment data, more detailed ethnic data, and mobility data. The fourth count data will become available, by State, during the fall of 1971. The income portion of this fourth count data is the key data source for selecting target areas. Consequently, the procedures described below for handling census data are of particular significance for FY 73.

The housing data, already available in the census first count, can be used in two ways: (a) as a good correlation for income data in place of less effective data sources; and (b) as an introduction to census use.

The second and third counts of data are not of significant usefulness to the selection process to be discussed here. Each count of the census is released over a period of months, the least populous States being released first.

The majority of the useful census data will come from computer tapes made available through summary tape processing centers recognized by the Census Bureau. The Census Bureau does print reports, but they are generally not detailed enough for target area selection. If an LEA uses nonpublished (computer tape) census data, it is advisable to order through the State title I Coordinator who can develop a larger order and thus lower the cost. A list of summary tape processing centers for your area can be obtained by writing to the Director, Bureau of the Census, Washington, D.C. 20233.

The Census Bureau divides the country into geographic areas,* called enumeration districts, for the purpose of counting people. There are approximately 280,000 enumeration districts (ed's) in the United States, with an average population of approximately 750. For non-metropolitan areas, the ed's will be the geographic division used for obtaining census tabulations. In many cases, ed's have the same boundaries as townships and will therefore coincide with attendance areas in non-metropolitan parts of the country.

The Census Bureau defines 247 Standard Metropolitan Statistical Areas (SMSA's). Within these areas and approximately 90 other heavily populated areas, the important geographic divisions are the census tract and census block. (The ed's are not normally used for tabulation, even though they are defined in metropolitan areas.) A census tract is an arbitrary geographic unit in which an average of 4,000 people live. The census block, on the other hand, is generally a normal city block. Whether a district has had census blocks defined for it depends on its classification as an SMSA. The SMSA's are listed in Appendix B.

Census data may be used to determine the number and percentage of children from low income families by attendance area. To do this, a district can use the Census Tract Estimation Method.**

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*For more information on the geography of census data, refer to "Data Access Description 12," dated December 1969, available free from the Bureau of the Census, Washington, D.C. 20233.

**Another method, The Special Census Tabulation Method, requires the Census Bureau to take action to provide data by attendance area. If such an agreement is reached, a school district could list the census blocks within each attendance area (using the metropolitan maps). The data would be submitted to the State Department of Education for forwarding to the Census Bureau which would summarize income data by attendance areas.

The Census Tract Estimation Method* requires metropolitan census tract data and metropolitan maps which can be obtained from the Census Bureau. The method involves four steps (see example in table 1 on page 6).

1. Outline the attendance areas over the census tracts on the metropolitan maps.

2. Estimate the number of children from low income families in each census tract. This calculation consists of multiplying the total number of children in the tract by the percentage of low income families (both available from the Census Bureau).

3. Estimate the percentage of the area of each census tract lying in the attendance area. This can be accomplished by counting blocks or visibly estimating areas.

4. Estimate the total number of children and the number of children from low income families in each attendance area. The calculation involves accumulating data established above in the following manner:

    a. Multiply counts of children in each tract by the percentage of the area that lies within the attendance areas.

    b. Accumulate the above results for all the census tracts with any part lying in an attendance area.

In nonmetropolitan areas, where no census tracts are defined, the LEA's are usually limited to using census data based on geographic areas called "minor civil divisions" and "places," which usually correspond with townships and towns respectively. If attendance areas correspond with townships and/or towns, then school officials will be able to use the census data (as published) directly in choosing target areas.

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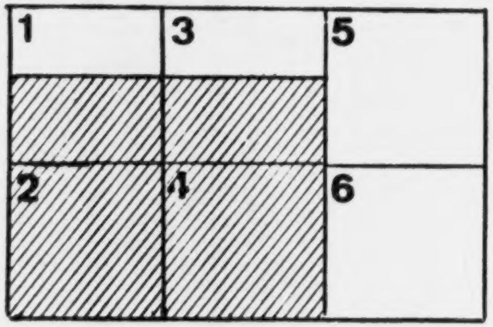
*This method assumes a uniform distribution of children from low income families across the census tract. In some instances, this assumption will not be valid. Where it is not valid, this method should be used in conjunction with other methods. A school official can determine the validity of the assumption by comparing census data to his own knowledge of the area.

Table 1

Example of the Census Tract Estimation Method for a Single Attendance Area. Suppose an attendance area covers the geography shown in the diagram below. Then the following tabulations will give you the numbers and percentage of children from low income families in that attendance area.

Census Tract	Total # Children	% Low income Families	# Children from Low income Families	% Trace in Attendance Area	# Children from Low income Families in Attendance Area	Total # of Children in Attendance Area	% of Children from Low income Families in Attendance Area
	a (Census)	b (Census)	c (a X b)	d	e (c X d)	f (a X d)	g
1	100	10%	10	50%	5	50	83/300 = 27.7%*
2	120	30%	36	100%	36	120	
3	100	20%	20	50%	10	50	
4	80	40%	32	100%	32	80	
5	40	30%	12	0%	0	0	
6	40	40%	16	0%	0	0	
					Total 83	Total 300	



* [Note: The 300 children and the 27.7% are those figures which will be used in determining eligibility and provision of services.]

AFDC Data

AFDC data have often been used for selecting target areas. Income levels and numbers of children are the prerequisite data for determining which families receive aid under AFDC, and these are exactly the data needed to determine target attendance areas. However, in some cases, ethnic groups with low-income members prefer not to be served by the AFDC program, even though they may be eligible. Children from low-income areas with high concentrations of such non-AFDC families might be left out of a title I program if AFDC data were used alone. For this reason, use of multiple data sources may be necessary to be certain that substantial numbers of children from low income families are not overlooked.

To use AFDC data, it is necessary to reconstruct the data (available from the welfare agency) by school attendance areas. This is most easily done by requesting the local AFDC agency to get counts of children from AFDC families by school attendance areas. In nonmetropolitan areas, local knowledge will often be sufficient to locate children by attendance areas. In metropolitan areas, however, one of two methods must be used:

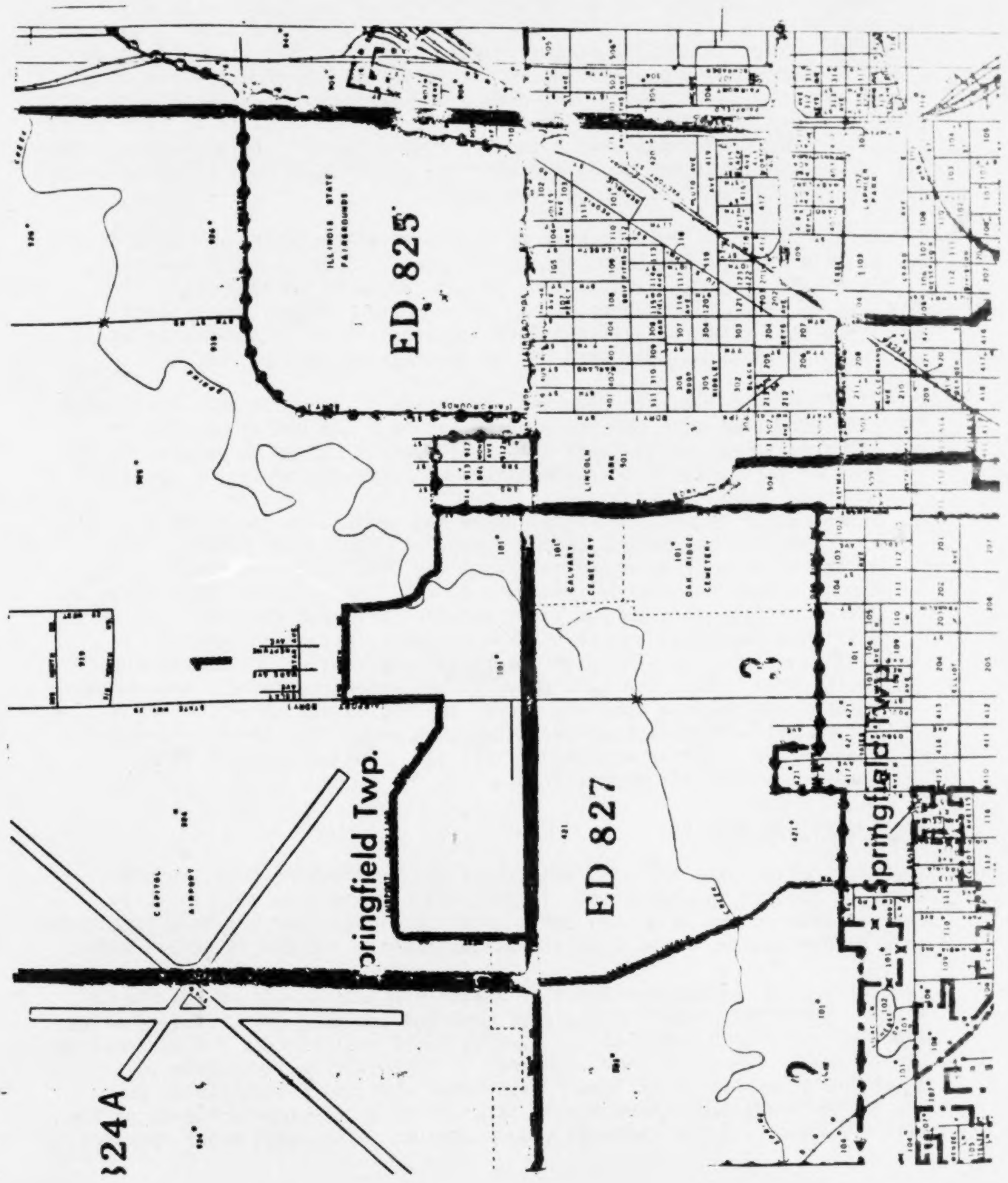
1. If the AFDC office has compiled statistics by census tract, use these data, together with census maps, to estimate the number of AFDC children in each attendance area. (The exact method to be used is the same as the Census Tract Estimation Method in the preceding section.)
2. A more exact method, in cities where the census was conducted by mail, is to request an Address Coding Guide from the Census Bureau. Then, either by hand or by computer, match the AFDC family addresses (from the local welfare agency) with the Address Coding Guide information to determine the exact census block in which the AFDC children live. Determine the total number of AFDC children in a given school attendance area by adding up the total number of AFDC children whose blocks fall within the particular school attendance area. The Census Bureau metropolitan maps are useful to help determine which census blocks are within each school attendance area. See the sample map on pages 8 and 9 for an example of this use. The heavy black lines indicate school attendance areas.

Secondary Data Sources

The 1970 census data include statistics on the crowding conditions and value of housing in each area. These data, because they are available earlier than income data, may serve as a useful tool for eligible attendance area determination, as well as an introduction to the use of census data.

Generally, the highest incidence of health problems occurs in low-income areas. Therefore, infant mortality, venereal disease, use of free clinics, and other health data can all be used as additional sources for determining target areas. In using them, however, it is generally impossible to determine a "number of children" associated with these statistics, so attendance areas are ranked simply in order of decreasing incidence of the health factors. These rankings should then be merged with other rankings.

USE OF 1970 CENSUS METROPOLITAN MAP IN IDENTIFYING ATTENDANCE AREAS


ED 825
ILLINOIS STATE FAIRGROUNDS
LINCOLN PARK
CALVARY CEMETERY
OAK RIDGE CEMETERY
ED 827
CAPITOL AIRPORT
Springfield Twp.
Springfield Twp.
1
2
3
324 A

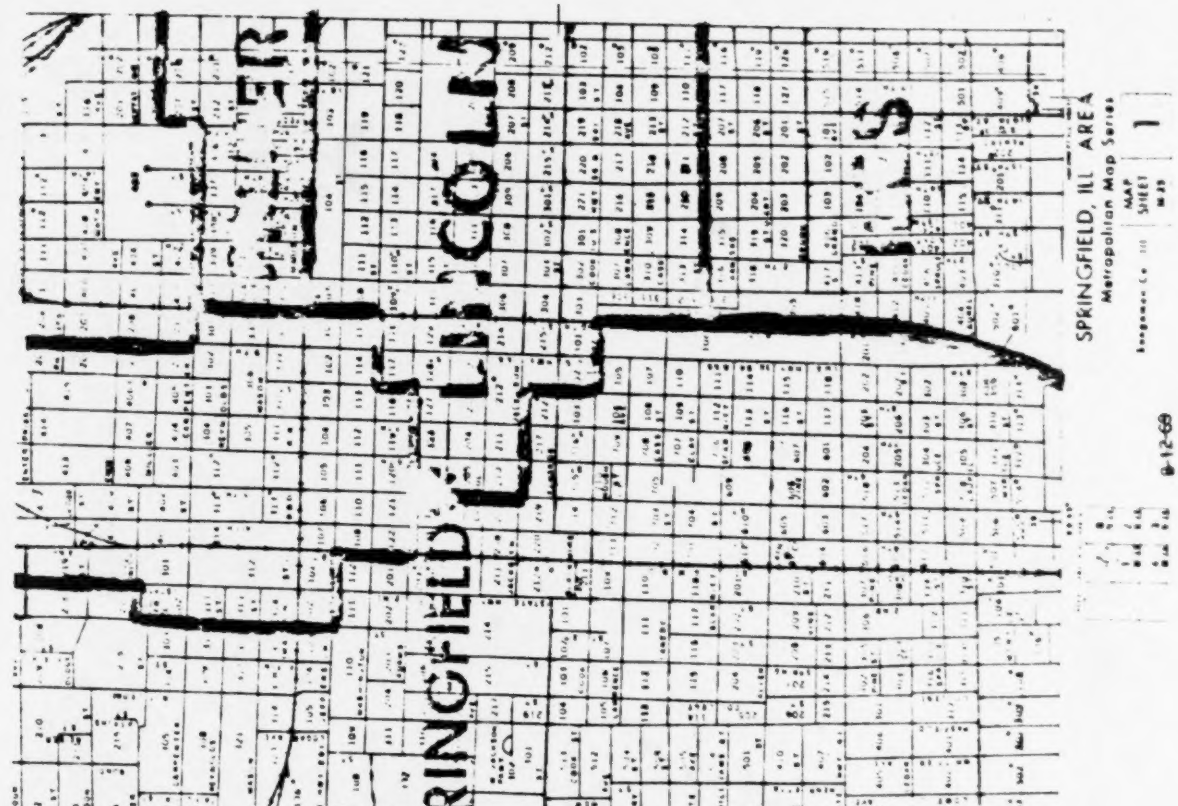

SPRINGFIELD
LINCOLN
SPRINGFIELD
LELAND GROVE
Twp.
DOUGLAS PARK
WASHINGTON PARK
SPRINGFIELD, ILL AREA
Metropolitan Map Series
Sangamon Co. Ill
MAP SHEET
1
-12-69
4-17-70

Table 2

Data Sources for Selecting Title I Target Areas

SOURCE	DATA ITEMS	ADVANTAGES & DISADVANTAGES
1. 1970 Census Data (Income Levels)	Counts of children Counts of low-income families	Advantage: Comprehensive sampling, generally accurate. (Best source) Disadvantage: Census geography not coincident with school attendance area geography.
2. Aid to Families With Dependent Children	Counts of children from low-income families	Disadvantages: Incomplete - misses poverty groups who choose not to use AFDC. Data not collected by attendance area.
3. Housing-Crowding Statistics	Counts of children living in overcrowded housing	Advantage: Early availability from 1970 Census. Disadvantages: Data not collected by attendance areas. : Not directly related to income.
4. Health Statistics	Relative intensity of health problems among geographic areas	Disadvantages: Data not collected by attendance areas. : Data not translatable into numbers of children.
5. Free Lunch Program	Counts of children from low-income families	Advantage: No geographic transformation necessary. Disadvantage: Based on a means test of the children.
6. Employment Statistics (1970 Census)	Relative concentrations of unemployment problems among geographic areas	Disadvantages: May not give a complete description of needs. : Data not collected by attendance areas. : Less effective than census income data. : Data not translatable into numbers of children.

Determination of free lunch eligibility generally requires a means test by local survey of each child in public and private schools. This survey provides information on income levels and number of children. If these data already exist, they can be used for determining eligible attendance areas.

Since employment statistics are available from the census at the same time income data becomes available, they will probably not be used in most cases, income data being more germane.

The local survey is a selection method in which each child is required to have his parents complete a questionnaire including data about family income. This method was omitted from the data source list because of three major deficiencies:

1. Accuracy: Answers to surveys often depend on the parent's perception of what is wanted. If a parent knows that putting down a low income will help his child get a better education, then he may be tempted to lower his response. On the other hand, some parents would be embarrassed to tell their income and would increase their stated income.
2. Completeness: It is often difficult to persuade parents to complete a personal questionnaire when they are not required to do so by law.
3. Privacy: In this time of heavy emphasis on individual rights, an income survey, especially when developed by schools, could be considered an invasion of privacy.

Another form of local survey is the teacher estimate process where each teacher is required to estimate the income levels of his students' families. This method is error prone and should be used only when other methods are completely inappropriate.

WEIGHTING DATA SOURCES AND RANKING ATTENDANCE AREAS

In this section, methods are presented for combining data sources through weighting and subsequently ranking attendance areas. These processes include Steps 4 through 6 in the selection process. Examples of the techniques are given in Appendix A.

Determining Weighting Factors, Combining Data Sources and Ranking Attendance Areas

Census income data alone can be used for the remaining calculations and no weighting is required. Also, if AFDC data is available and there are evidence that there are no non-AFDC low income concentrations in the district, the AFDC data alone may be used. However, it is recommended that a combination of data sources be used whenever AFDC data are the basis for selection of target areas to insure that no eligible children are overlooked.

To combine data sources, it is necessary to evaluate the relative importance of the sources and to give each a weight. For example, where an attendance area includes a low income Spanish-speaking group* that generally does not use AFDC, the following weights, as determined by your evaluation, might be applicable: AFDC 80%, Spanish-speaking 20%. Or, if the school attendance area also includes groups that are poor, do not use AFDC, and are not members of a measurable minority group, then the following weights might be used: AFDC 60%, Spanish-speaking 20%, housing-crowding 20%. The exact percentages chosen will depend heavily on local conditions, and no standard percentages should be set.

In combining different data sources, it is important to transform all sources to the same general units, for example, counts of children or counts of families. Since housing data are by housing unit, these units should be converted to numbers of children to combine that data with other counts of children. Thus, to combine AFDC, low income Spanish-speaking, and housing-crowding, the following data elements would exist for each attendance area:

1. Total number of children aged 5 - 17.
2. Total number of AFDC children aged 5 - 17.
3. Total number of children from low income Spanish-speaking families aged 5 - 17.
4. Total number of children from areas reflecting housing-crowding conditions.

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*Ethnic data should only be used when an independent analysis has shown there is a very high correlation between the ethnic group and low income status. If 1970 census data are available, they are far superior to mixed AFDC and ethnic data.

To estimate the number of children from low-income families, multiply each count by its weight (e.g., AFDC by .60, low-income Spanish-speaking by .20, and housing-crowding by .20) and add the results.

Finally, rank the attendance areas in order of decreasing concentrations of students from low-income families as determined by the previous analysis. This includes a ranking both by percentage of children from low income families and by numbers of children from low income families. (See Appendix A.)

DETERMINATION OF ELIGIBLE ATTENDANCE AREAS AND SELECTION OF PROJECT AREAS

The final steps in determining where title I services are to be provided are:

7. Determining averages.

8. Determining eligible attendance areas.

9. Selection of project areas.

Determining Averages

To determine eligible attendance areas, you need two averages. The first is the average number of children from low-income families in each attendance area of the district. The second is the percentage of children from low-income families residing in the entire school district.

If a single data source is used, these averages are easily calculated. If data sources are combined, it will be necessary to calculate a combined total number of all children for the attendance area. This is done by weighting the totals from each of the sources. Then, the percentage of children from low-income families for the district is the sum of the numbers of children from low-income families in the several attendance areas, divided by the total number of children in the several attendance areas.

Determining Eligible Attendance Areas

Once the rankings have been made and the averages calculated, the eligible attendance areas are immediately discernible. For example, assume six attendance areas were ranked as follows:

Attendance Area	Percentage		Attendance Area	Numbers	
A	60%		B	50	
B	50%	avg.	C	45	
C	30%	20.3%	F	40	
D	20%		D	31	29.7 avg.
E	10%		A	12	
F	0%		E	0	

Then, by the percentage method, A, B, and C are eligible, and by the numbers method, B, C, F, and D are eligible.

This completes the determination of eligibility, and five of the six attendance areas have been determined to be eligible, though all will not be selected as project areas.

Selection of Project Areas

Project areas are selected from among eligible attendance areas on the basis of a needs assessment of the children. This needs assessment must be tailored to meet local situations. However, certain regulations are applicable.

The final selection of project areas is made according to the following section of the Code of Federal Regulations:

> "A school attendance area for either a public elementary school or a public secondary school may be designated as a project area if it has, on a percentage or numerical basis, a high concentration of children from low-income families. On a percentage basis such an area is one in which the percentage of children from low-income families is at least as high as the percentage of such children residing in the whole of the school district. In addition, upon request by the local educational agency, the State educational agency may approve the designation as project areas of attendance areas in which, on the basis of current data, 30 percent of the children are from low-income families. On a numerical basis such an area is one in which the estimated number of children from low-income families residing in that attendance area is at least as large as the average number of such children residing in each of the several attendance areas in the school district. If a combination of such methods is used, the number of project areas may not exceed the number of such areas that could be designated if only one such method had been used. Except upon specific request to and approval by the State educational agency, based on an assessment of particular educational needs, a local educational agency shall not designate an attendance area as a project area unless all attendance areas with a higher percentage or number of children (depending on the method used to determine the eligibility of the school attendance area) have been so designated. In no event, however, shall the State educational agency approve such a request without first determining that the services provided with State and local funds in any area with a higher percentage or number of children but not designated for a project are comparable to the services in other areas not designated for projects."

There are three rules for project area selection imbedded in this section:

1. An attendance area must have a higher number or percentage of children from low-income families than the district average. In specific cases, and with the approval of the State education agency, an area where 30 percent or more of the children are from such families may also be designated as a project area.

2. No more attendance areas can be selected as project areas than either the percentage ranking or the numbers' ranking alone would provide.

3. In most cases, no eligible attendance areas should be skipped in selecting project areas.

By rule 2, using the example on the preceding page, only four attendance areas could be selected (not five, even though there are five eligible ones).

Thus, your choices under this rule would be:

Percentage method alone	A, B, C
Numbers method alone	B, C, F, D
Combination (1)	A, B, C, F
(2)	A, B, C, D

However, by rule 3, the combination of A, B, C, and D is not acceptable, except by specific permission of the State education agency, because F would have been skipped.

Although these rules may seem arbitrary in this example, their use in the actual selection process will be extremely effective in ensuring the most equitable allocation of resources.

Sometimes it is necessary (as in the example just cited) to choose between using numbers of children from low-income families and percentages of children from low-income families in selecting project areas. No general rule is applicable here. If only one can be used, then it is up to the LEA to decide whether it is more important to help children from an attendance area with perhaps a smaller number of children but a higher percentage of children from low-income families. Generally, the LEA's use the percentage method, but this determination should be made by the LEA on the basis of a needs assessment.

Primary, Elementary, Intermediate, and Secondary Attendance Areas

Wherever an LEA has multiple schools serving specific grade levels, separate tabulations and ranking should be performed for the attendance areas of each set of schools. With this method, attendance areas in each grade level will be eligible for title I.

Exceptions

In a very few districts, there may be no wide variations in the concentration of children from low-income families. In such cases, if the variation is significantly less than the average variation for that State, an entire school district may be regarded as a single area of high concentration.

In school districts where most schools serve from kindergarten through 6th or 8th grades, but where a few schools have been separated into two sections (e.g., K-3 and 4-6), both sections should be considered as part of one school, and they should be eligible or not eligible as if they had been one school.

Private schools are not designated as eligible or participating institutions. It is children from private schools who are eligible for services paid for with title I money. Eligible private school children are those educationally deprived children who reside in the public school attendance areas designated as title I project areas. Care should be taken to include children enrolled in private schools in the computations to determine eligible attendance areas and project areas.

Children who reside in eligible attendance areas but by specific arrangement, because of desegregation, attend schools serving ineligible areas may be considered for participation in the title I program until the integration plan has been terminated. However, title I money must not be used to segregate these children.

If a district does not have identifiable attendance areas, project area selection must be based on the best possible estimates of numbers of children from low income families attending the schools. One method for collecting such information in small districts, where teachers know most of the students and their families, is to provide the teacher with a survey sheet to be filled out estimating the number of students whose family income falls below an arbitrarily chosen poverty line.

Reporting Form

The final project of the analysis for selection of target areas should be a table with the following elements:

1. School district -- Name, County, and State.
2. School year in which these attendance areas will be eligible.
3. Data sources and weights applied to each.
4. Local situations meriting special consideration.
5. The average percentage of children from low income families in the school district and the average number of children from low income families in the attendance areas of each set of schools (elementary, intermediate, and secondary).
6. A list of all attendance areas, ranked by percentage of children from low-income families and giving both the percentage and the number of children from low income families in the attendance area.

A form for recording this information is included on the following pages. The table can be a means of communicating the rationale of local decisions to the State title I coordinator.

Elementary schools: (rankings by percentage of children from low income families)

School Name Attendance Area (Desegregated by school)	Percentage of children from low-income families	Number of children from low-income families	Eligible Yes-No	Project Yes-No

Secondary schools:

Other schools:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

January 21, 1971

ESEA Title I Program Guide #64
DCE/P&P

MEMORANDUM TO CHIEF STATE SCHOOL OFFICERS

Subject: The Administration of Title I of the Elementary and Secondary Education Act in Districts That Have Undergone Desegregation

Cancelled: Program Guide #28

The purpose of this memorandum is to cancel Program Guide #28 and to restate the existing Title I policies that will be applicable to local educational agencies whose school districts have recently been desegregated.

Selection of Areas or Schools

Wherever definite attendance areas or zones have been established, whether through a desegregation plan or otherwise, Title I services are to be offered only to children who live in those areas or zones which have at least average or higher than average concentrations of children from low-income families (see Title I Regulations, Section 116.17). Each local educational agency that has undergone desegregation must, therefore, in planning its Title I program for fiscal year 1972 determine which of its attendance areas are eligible for Title I projects. If there are no well defined attendance areas, the local educational agency should redetermine which of its schools are eligible for Title I projects on the basis that the incidence of children from low-income families in those schools is as high or higher than the average incidence for all schools in the district.

Unfortunately, in some instances children who have participated in Title I programs under previous determinations of eligibility, including children who have been served on the basis that Title I services "follow the child," will now be residing in ineligible attendance areas and, therefore, will be ineligible for Title I services.

As explained in the Title I criteria (Program Guide #44), for those school districts where there are no well-defined attendance areas, the determination of schools eligible for Title I projects is to be made on the basis of the number or percentage of children from low-income families actually attending each school operated by the local educational agency. Such a determination, however, does not preclude the participation of preschool or private school children, who will attend or could attend that school.

In districts with no wide variations in the concentrations of children from low-income families, a whole school district or group of contiguous school attendance areas may be regarded as a single area of high concentration. Such determinations should, of course, be limited to those school districts where the variation between the areas of highest and lowest concentration is significantly less than the average variation for the State. In each such case the local educational agency must make a special effort to ensure that Title I services are concentrated sufficiently on a limited number of children to insure an effective program.

Extension of Title I Services to Children Attending Non-Title I Schools

Children who reside in eligible attendance areas but by specific arrangements attend schools serving ineligible areas may be considered for participation in the Title I program.

Effect of Title I Programs on Desegregation

Title I funds are not to be used for the purpose of meeting the specific requirements of a desegregation plan. Nevertheless, the Title I program should have a positive effect on the applicant's desegregation program and should not in any event contribute to the maintenance or renewal of segregation, It is extremely important, therefore, that children be chosen to receive Title I assistance on the basis of race.

Your agency in monitoring Title I projects must ensure that they are not being conducted in ways that result in the racial isolation of the children being served.

Segregated Institutions for Neglected and Delinquent Children

Title I services are not to be offered on the premises of a segregated institution for neglected or delinquent children. Children from such institutions who have special educational needs may participate in Title I programs on public premises provided that such programs also serve children from outside those institutions and that the children are selected for those programs on a non-discriminatory bais.

Amendments to Title I Applications

All changes in attendance patterns or in any other conditions that affect the determinations that must be made under Title I should be reported immediately to the State educational agency. Appropriate changes of programs should be planned as quickly as possible and submitted to the State educational agency for approval.

Authority: 20 U.S.C. 241e(a)(1)

S. P. Marland, Jr.
Commissioner of Education

cc: State Title I Coordinators, ESEA

II. INFORMATION GATHERING AND ANALYSIS

Phyllis McClure

II.

INFORMATION GATHERING AND ANALYSIS

Gathering and analyzing information about Title I expenditures is not difficult, but it is crucial to the development of your case. All of the information you need can be obtained from local school officials, and they are required by the Title I Regulations and by Program Guide #54 to provide all information concerning the Title I program to you or any other interested citizen.

The basic document which you should first obtain is the project application for the current school year. These project applications may take different forms depending on what state you are in, but they all contain the same essential information. A copy of what the Title I project application will resemble is attached to this paper. Along with this document, you should also obtain the budget and the narrative program description, plus any other written material produced by the school district such as pamphlets, evaluations, equipment inventories. With the exception of communications between state and local officials concerning Title I which you may be able to obtain from the state educational agency, the documents should tell you everything you want to know about how Title I operates in any local district. In order to have a complete picture of Title I and to build a good case, you should obtain all of this material for each previous school year in which Title I funds have come into your district.

You have two basic jobs in analyzing this information. The first is to determine where the money is going and what kinds of programs and services are being supported. The second is to determine if the school district is actually providing the services and programs to eligible children that they say they are in the project application. It is possible that the project application does not reflect what is actually happening with Title I funds, so it is wise not to take the project application at face value until you have verified the information in it by visits to schools and interviews with school officials. There are five basic steps to understanding how Title I funds are used in a local district:

1. In order to determine where the Title I money is going, you should begin with the budget and the figures provided in the Title I project application. Figure it out by category--instructional and non-instructional; administrative, clerical, instructional, cultural enrichment; health care and food service. How many personnel are paid by Title I funds? What equipment has been purchased? What construction, remodeling, or renting of mobile units is to be supported?

2. From the budget and descriptive narrative you should determine what programs and services are operating in each school. This may be set out in the description of programs, or the budget may indicate the assignment of teachers to schools. If you can get this school-by-school information, from the materials you have, list for each school the programs and services which Title I supports and then verify this information through interviews with teachers and principals, and conversations with children and parents. If this information is not provided, you will have to dig it out from interviewing the Title I coordinator for the local system, and from the principals and teachers.

3. The next thing to figure out is which schools and which students are receiving Title I assistance. The schools with the highest incidence of poverty in the district should be the targets, not all the schools

in the system. Furthermore, the local agency should distinguish between the enrollment figures for the Title I school and the actual number of participants in the Title I program. Many project applications simply list the entire school enrollment rather than identifying individual children who are educationally disadvantaged. All children, even in a Title I target school, may not qualify under the law as either meeting the poverty criteria or the standard of educational deprivation.

If all students in the target schools are participating, this may be an indication that Title I is being used as general aid. On the other hand it could well be that all children in the school or in the school district are eligible for assistance. The problem then is determining whether those children most in need or those with the most severe educational needs have been identified and assisted with Title I programs. By dividing the total amount of funds approved by the state in the upper right hand corner of the first page of the project application by the total number of participants you will arrive at an average per-pupil expenditure figure. This figure may vary from school to school, because some students may get a heavier concentration of services than other students. However, if the average figure is low--for example $50 or $60 per child--this may be another indication that Title I funds are being used as general aid.

Finally, it is important to bear in mind that not all children eligible under the law may receive assistance. Because Congress has never fully funded Title I, there simply is not enough money coming into each local district to serve all eligible children on a concentrated basis. The choice is between giving a little to everyone or all to some children who are most deprived.

Therefore, it is not possible to argue that a local district did not provide Title I benefits to some eligible children unless you can document that they are the most deprived in the terms of the meaning of the statute, regulations, and program criteria. Because some states and local districts are now beginning to concentrate Title I funds, some children who received Title I benefits in the past no longer get them. This causes great dissatisfaction in the community but cannot necessarily be attacked legally because school officials are only doing what they must or should have done several years ago.

4. Once you determine how Title I funds are being used in target schools and what kinds of programs and services Title I eligible children are provided, you will want to find out whether these same services and programs are provided to other children in the system with local, state or other kinds of Federal money. If, for example, Title I is supporting a remedial reading program or an experimental mathematics course, are those programs provided in other schools which are not receiving Title I assistance? The only way you can determine this is to visit other schools in the system and talk to principals, teachers, the PTA officials and similar persons who are familiar with that school. If you find the same programs or services, equipment or construction in non-Title I schools as in Title I schools, but paid out of different budgets, you probably have a case of using Title I funds to supplant state and local funds.

Another kind of supplanting occurs when the school district starts using Title I funds for services or programs in Title I schools which existed prior to the inception of Title I and which were paid for out of other funds. This is why it is important to obtain project proposals from previous years. For example, a nurse or curriculum coordinator may have been assigned to one or several Title I schools. She may have been in these schools for several years, but now her salary shows up in the Title I budget. Also such roving personnel assigned to more than one school may be serving Title I eligible children as well as non-Title I children, but that part of her salary is paid out of Title I funds. This is also a case of supplanting.

The most obvious examples of supplanting are using Title I money at eligible schools for the same items funded by local or state money at other schools and the prorating of costs or salaries between the Title I budget and the regular school budget.

5. General aid is perhaps the easiest violation of Title I to detect. If money is being used to support services and programs that reach ineligible children, then obviously eligible children are being cheated. One cannot be too dogmatic about general aid however, because there may be instances when to exclude ineligible children from participating in Title I services simply would not make good sense. For example, if Title I is supporting a reading clinic or a special excursion, other children in a class or in a school may receive incidental benefits without violating Title I.

One of the most obvious examples of general aid is the use of Title I funds to support an audio-visual center, a film library, a curriculum or materials center which is located in a central facility but used by all schools or at least by non-Title I schools in the district. In most of these centers, equipment is checked out by teachers or by individual schools. A visit to the center and an examination of the check-out cards should tell you where the equipment and materials are going. Such centers may be a very nice addition to the educational program, but if local school officials consider these services useful and appropriate for the general education program, then they ought to be funded out of other than Title I money.

Another frequent example of general aid is the use of Title I funds to support the salaries of personnel who perform general duties for the whole system or who perform duties in Title I and non-Title I schools.

There are other kinds of information you should have to obtain full insight into how Title I operates.

6. Is there a functioning Title I Advisory Committee or some other vehicle of parent and community involvement? This will require interviewing of school officials.

7. What involvement in the design of the Title I program has the local CAP agency had beyond simply signing off on the project application? What has the CAP agency's contact with the school system been? Has the CAP director ever considered refusing to sign off on the project application if his agency had not been involved?

8. Has the school district conducted any evaluations of the Title I program as required? Are these evaluations simply self-serving descriptions or do they make an honest attempt to evaluate whether kids are learning or whether the goals of the program are being met?

9. Are the goals of the Title I program clear and specific or doesn't the program have any goals at all? Or are the program goals stated in such vague and general terms as to be almost meaningless? Are the goals stated in terms of educational progress or are they stated in other terms such as improving discipline or achieving middle-class values? Are they based on racist implications or ideology? If definite and specific goals are stated, is the program funded by Title I directed at those goals in any way? You may need to consult educational experts or authorities on

this one, but quite often simple common sense will tell you whether the goals of the program is directed to meet any clear objectives at all.

10. Above all, is the Title I program designed to meet the most pressing and obvious educational needs of poor children? In a district in which poor and minority children are three years behind in reading, is Title I supporting remedial reading or is it supporting trips to an amusement park, an arts and crafts program and food service? In a district with poor children for whom Spanish is the native tongue, is Title I money being used to meet those language needs or are they being ignored? Does the language program give equal weight to Spanish as it does to English or is it simply an effort to subordinate and eradicate any Spanish language, tradition or culture?

11. How does the school lunch program operate in your district? Does the district participate in the National School Lunch Program? (You can find this out from local officials or from the state School Lunch director.) Under this program, are free and reduced-price lunches provided in poverty-area schools or does Title I support food service in those schools? Does Title I money pay the reduced price? In general you should be alert to the possibility that Title I funds may be used to support a lunch program where the National School Lunch Program, surplus commodities, and a little local effort could be used to support the school lunch program and thus free Title I for other uses.

12. It is also crucial to your investigation to determine how local school officials determine eligibility of children for Title I assistance. Are the poverty criteria employed to rank eligible schools clearly within the purview of section of Program Guide #44? How is educational

deprivation determined? Is there any attempt to determine educational deprivation or is it simply equated with poverty? What tests or other criteria are employed? If no attempt or a very unsophisticated attempt is made to determine educational deprivation, how can a Title I program be designed and conducted to deal with educational deprivation if the district doesn't understand the dimensions of the problem?

In finding answers to the questions raised in numbers 8,9,10, and 12 a careful reading of the narrative description on the program may be helpful. It is usual for school officials to include in this section their rational for the programs they are conducting, the goals they have identified, and whether there is a real effort to measure progress of students and thus validate the worth of their programs. Interviews should be conducted after the documents have been examined and when you think you have some notion of how the money is being spent.

PUBLIC INFORMATION

On October 14, 1971, HEW published its Public Information regulation in the Federal Register. The regulation, 45 C.F.R. 116.17(n) is set out below along with H.E.W.'s summary of comments and an earlier memorandum. The regulation governs requests from parents and the general public. Parent advisory council members have additional rights to information, see p. 201.

> (n) Each application by a local educational agency for a grant under title I of the Act shall include specific plans for disseminating information concerning the provisions of title I, and the applicant's past and present title I programs, including evaluations of such programs, to parents and to the general public and for making available to them upon request the full text of current and past title I applications, all pertinent documents related to those applications, evaluations of the applicant's past title I projects, all reports required by §116.23 to be submitted to the State educational agency, and such other documents as may be reasonably necessary to meet the needs of such parents or other members of the public for information related to the comprehensive planning, operation, and evaluation of the title I program but not including information relating to the performance of identified children and teachers. Such plans shall include provision for the reproduction, upon request, of such documents free of charge or at reasonable cost (not to exceed the additional costs incurred which are not covered by title I funds) or provisions whereby persons requesting such copies will be given adequate opportunity to arrange for the reproduction of such documents.

> Summary of comments--1. Public information. Commenters on § 116.17(n) emphasized the possibility that notwithstanding the limitations in the rule with respect to charges for copies of documents local educational agencies might charge excessively, thus preventing poor parents from securing the documents they need in order to understand the local title I program. They recommended that copies be made available free of charge. Objections were raised to the proposed rule on the grounds that it could be interpreted as requiring the assessment of charges of project documents and that the amounts charged could be recovered both from parties requesting copies and from title I funds. The change indicated above is intended to remove the cause for both of those objections. Also, while charges may still be made for copies of documents it should be noted that the subject paragraph requires a positive dissemination program and the following paragraph (§ 116.17(o)) requires that parent councils be given such documents free of charge.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

October 16, 1970

Our Reference: ESEA Title I
DCE/OD

MEMORANDUM TO CHIEF STATE SCHOOL OFFICERS

Subject: Advisory Statement on Development of Policy on Public Information

In the past your offices have been most cooperative in complying with the Title I, Elementary and Secondary Education Act policy which made applications and other reports on State and local Title I projects available to interested parties. Section 110 of Public Law 91-230 (the 1970 amendments to the Elementary and Secondary Education Act) simply reiterates that policy.

Public Law 91-230 specifically designates Title I applications and other "pertinent documents" as public information. Regulations which are currently being developed will define the term "pertinent documents" and will indicate how such documents are to be made available. The proposed regulations currently under review provide that State educational agencies and, in turn, their local educational agencies will be required to make the following documents available for inspection or, upon request and at a reasonable charge, provide an interested party with a copy of the document:

1. Current and past Title I applications.
2. All documents and records (except those which relate to the performance of named students and teachers) relating to the planning, development, operation, and evaluation of Title I programs.
3. Other documents and records, whether prepared for Title I specifically or not (except as exempted in item 2), containing information necessary for comprehensive planning or evaluation of the compensatory education program.

Local educational agencies will be required to include an assurance in their Title I applications that the above information is available for public inspection or reproduction.

T. H. Bell
Acting U.S. Commissioner of Education

Copies to: State Title I Coordinators, ESEA

Title I data collection is occasionally stalled by the response that records from earlier years are no longer available. Below are the Federal records retention requirements which may be helpful in such situations.

45 C.F.R. § 116.54 Retention of records.

(PARAGRAPH (a) AMENDED NOVEMBER 28, 1968, 33 F.R. 17790)

(a) Subject to the provisions of paragraph (c) of § 116.55, each State educational agency and local educational agency receiving a grant under Title I of the Act shall keep intact and accessible all records relating to such Federal grants or the accountability of the grantee for the expenditure of such grants (1) for 5 years after the close of the fiscal year in which the expenditure was made, or (2) until the State educational agency is notified that such records are not needed for administrative review, whichever is the earlier.

(b) The records involved in any claim or expenditure which has been questioned shall be further maintained until necessary adjustments have been made and such adjustments have been reviewed and approved by the Department of Health, Education, and Welfare.

Federal Register vol. 36, p. 3718, Guide to Record Retention Requirements, February 26, 1971.

1.16 State and local educational agencies receiving financial assistance for the education of children of low-income families, pursuant to title I of the Elementary and Secondary Education Act of 1965, which amended Public Law 81-874, as amended. /Amended/

(a) To keep intact and accessible all records supporting claims for Federal grants or relating to the accountability of the grantee for expenditure of such grants.
Retention period: (1) 5 years after close of fiscal year in which expenditure was made; or (2) until State educational agency is notified that such records are not needed for administrative review, whichever is the earliest.[6] 45 CFR 116.54

(b) To maintain inventory records on equipment acquired with Federal funds and placed in the temporary custody of persons in a private school.
Retention period: 1 year following period inventories must be kept, i.e., until the equipment is discharged from such custody and, if costing $100 or more per unit, for the expected useful life of the equipment or until its disposition. 45 CFR 116.55

III. SAMPLE COMPLAINT

III. SAMPLE COMPLAINT

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF RHODE ISLAND

ROBERTA BARBIDGE, ppa ARTHUR
ROBERGE and ppa ALFRED
ROBERGE; BESSIE CRENSHAW,
ppa ROBERT CRENSHAW and ppa
MORRIS CRENSHAW; MADELINE
PERSON, ppa LINDA PERSON and
ppa CLARENCE PERSON; ALTA
WILKERSON, ppa SEBRENA WILKERSON
and ppa DONUATTE WILKERSON;
CONNIE GOMES, ppa EDWARD
COLLETTE and ppa LISA COLLETTE;
and ALICE GREEN, ppa DONELL
PAGE,

Plaintiffs,

vs. C. A. File No__________

ELIOT RICHARDSON, as Secretary
of the Department of Health,
Education and Welfare, TERREL
BELL as Acting U.S. Commissioner
of Education, RICHARD FAIRLEY as
Acting Director of the Division
of Compensatory Education, USOE,
WILLIAM ROBINSON as Director of
the interim State Agency for
Elementary and Secondary Education
for Rhode Island, EDWARD
COSTA, Title I Coordinator for
Rhode Island, PROVIDENCE SCHOOL
COMMITTEE, CHARLES KILVERT,
JOSEPH P. DUFFY, RICHARD
KANACZETT, EDWARD DONILON, DORA
B. FOWLER, LOUIS J. MAZZUCCHELLI,
SUSAN SCUNGIO, STANLEY D. SIMON,
WILSON S. WILLIAMS as members,
RICHARD BRIGGS as Superintendent
of Schools for Providence,
CATHERINE CASSERLY as Assistant
Superintendent in charge of
Federal Programs, ANTHONY RUSSO,
of Title I, Director for Providence.

Defendants.

COMPLAINT

JURISDICTION

1. This is an action arising under the Constitution and laws of the United States and as authorized by 42 U.S.C. Sec. 1983 for declaratory and injunctive relief to require defendants who act under color of federal or state statute, ordinance, regulation, custom or usage, to provide plaintiffs and their children with rights, privileges and immunities secured to them by Title I of the Elementary and Secondary Education Act, 20 U.S.C. Sec. 241a, et seq., and regulations, program guidelines and contracts thereto.

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sec. 1331, 1343(3), 1343(4), 1361, 1391, 2201 and 2202 and this Court's ancillary and pendent jurisdiction. The amount in controversy exceeds ten thousand dollars ($10,000.00) exclusive of interests and costs.

PARTIES

3. Adult plaintiff Roberta Babbidge sues on her own behalf and, as next friend, on behalf of her minor children, Arthur Roberge and Alfred Roberge. Adult plaintiff Bessie Crenshaw sues on her own behalf, and as next friend, on behalf of her minor children, Robert Crenshaw and Morris Crenshaw. Adult plaintiff Madeline Person sues on her own behalf and, as next Friend, on behalf of her minor children, Linda Person and Clarence Person. Adult plaintiff Alta Wilkerson sues on her own

behalf and, as next friend, on behalf of her minor children, Sebrena Wilkerson and Donuatte Wilkerson. Adult plaintiff Connie Gomes sues on her own behalf, and as next friend on behalf of her minor children, Edward Collette and Lisa Collette. Adult plaintiff Alice Green sues on her own behalf and, as next friend, on behalf of her minor great nephew, Donell Page, as his legal guardian.

The adult and minor plaintiffs are low-income residents of Providence, Rhode Island, and citizens of the United States and the State of Rhode Island. The minor plaintiffs are all educationally deprived, that is, children who have a need for special educational assistance in order that their level of educational attainment may be raised to that appropriate for children of their age. Program Guide Number 44. The children plaintiffs are from Providence families living in school attendance areas with high concentration of children from low-income families ("eligible attendance areas") and therefore they are among the intended beneficiaries, or "target" populations, for federal funds under Title I of the Elementary and Secondary Education Act of 1965 (hereinafter referred to as "Title I").

4. Each plaintiff brings this action on his own behalf and, pursuant to Rule 23(b) of the Federal Rules of Civil Procedure, on behalf of all other educationally deprived children and their parents residing in eligible attendance areas, who are similarly injured by the violations of law alleged herein. The class is so numerous that joinder of all members is impracticable; there are questions of law and fact common to the class; the claims of the named plaintiffs are typical of the claims of

the class; and the named plaintiffs will fairly and adequately protect the interests of the class. Defendants have acted and failed to act on grounds generally applicable to the class, thereby making injunctive and declaratory relief appropriate with respect to the class as a whole.

5. Defendant Eliot Richardson as Secretary of the United States Department of Health, Education and Welfare (hereinafter referred to as "HEW"), has overall responsibility for the activities of HEW and its officers and agents and under 20 U.S.C. Section 2, has overall responsibility for the supervision of the United States Office of Education (hereinafter referred to as USOE), its officers and agents.

6. Defendant Terrel Bell, as Acting Commissioner of USOE and under 20 U.S.C. Sec. 2, has general responsibility for the activities of USOE and his subordinates in that office. Under 20 U.S.C., Sec. 241a, et seq., he has general responsibility for allocating Title I funds to state educational agencies and for enforcing the applicable laws, regulations, guidelines, contracts, and assurances. Under 20 U.S.C. Sec. 6 and 242, he has responsibility for promulgating and enforcing regulations and program guidelines governing the administration of Title I funds; pursuant to such responsibilities, defendant and his predecessors have promulgated regulations and program guidelines.

7. Defendant Richard Fairley as Acting Director of the Division of Compensatory Education, USOE, has direct responsibility for allocating Title I funds to state educational agencies, and for enforcing the applicable laws, regulations, guidelines,

contracts and assurances; and pursuant to such responsibilities he or his predecessors have promulgated and implemented regulations, program guidelines, contracts and assurances.

8. Defendant William Robinson as Director of the interim State Agency for Elementary and Secondary Education for the State of Rhode Island (formerly the State Department of Education), and under 20 U.S.C. Sec. 241g, and R.I. Gen. Laws 16-1-5 and 16-8-14, has general responsibility for allocating Title I funds to the Providence School District in the State of Rhode Island, for approving Title I project applications from the Providence School District, and for enforcing the applicable laws, regulations, guidelines, contracts and assurances.

9. Defendant Edward Costa as Title I coordinator for the interim State Agency for Elementary and Secondary Education (hereinafter referred to as the "interim State Agency") for the State of Rhode Island has direct responsibility for allocating Title I funds to the Providence School District, for approving Title I project applications from the Providence School District, and for enforcing the applicable laws, guidelines, regulations, contracts and assurances.

10. Defendant Providence School Committee, (1) Charles Kilvert; (2) Joseph P. Duffy; (3) Richard Kanaczett; (4) Edward Donilon; (5) Dora B. Fowler; (6) Louis J. Mazzucchelli; (7) Susan Scungio; (8) Stanley D. Simon; (9) Wilson S. Williams, individually and as members thereof has overall responsibility for all public education in the City of Providence pursuant to R.I. Gen. Laws 16-2-25, including the planning and administration of Title I programs in the Providence School District in accordance with the applicable laws, regulations, guidelines, contracts and assurances.

11. Defendant Richard Briggs as Superintendent and chief administrative officer for the Providence School District and pursuant to R.I. Gen. Laws 16-2-11 has general responsibility for the planning and administration of Title I programs, in the Providence School District in accordance with the applicable laws, regulations, guidelines, contracts and assurances.

12. Defendant Catherine Casserly as Assistant Superintendent for the Providence School District in charge of Federal Programs, including Title I, has direct responsibility in planning and administering the Title I programs in the Providence School District in accordance with the applicable laws, regulations, guidelines, contracts and assurances.

13. Defendant Anthony Russo as Title I director for the Providence School District, in conjunction with defendant Casserly, is directly responsible for the planning and administration of Title I programs in the Providence School District in accordance with the applicable laws, regulations, guidelines, contracts and assurances.

14. Defendants listed in paragraphs 5 through 7 are federal officials and are sued in Federal District Court for the District of Rhode Island pursuant to 28 U.S.C. Sec. 1391.

15. Defendants listed in paragraphs 8 through 13 all reside in the State of Rhode Island and therefore they are subject to the in personam jurisdiction of this Court.

16. All defendants have acted as alleged herein under color of federal or state statute, ordinance, regulation, custom or usage, and all defendants are sued in their official capacities.

FACTS

17. Title I declared a congressional policy of providing federal funds to concentrations of children from low income families to expand and improve their educational programs by various means . . .which contribute particularly to meeting the special educational needs of educationally deprived children (hereinafter "target children").

18. The State of Rhode Island annually receives more than $3,000,000.00 under Title I. The state educational agency approves and funds Title I projects submitted by local educational agencies. The Providence School District is annually alloted approximately fifty percent of this total amount.

19. The Providence School District expended approximately $15.8 million for the 1965-66 school year, in addition to approximately $1.4 million in Title I funds; in 1966-67 approximately $15.7 million was expended, in addition to approximately $1.5 million in Title I funds; in 1967-68, approximately $19.2 million was expended, in addition to approximately $1.5 million in Title I funds; in 1968-69, approximately $21.6 million was expended, in addition to approximately $1.5 million in Title I funds; in 1969-70, approximately $22.9 million was expended, in addition to approximately $1.6 million in Title I funds. For the 1970-71 school year the Providence School District will expend approximately $26 million with the Title I allocation projected to add approximately $1.6 million to this total. Thus during the period from 1965-66 through school year 1970-71, the Providence School District will have expended approximately $130 million including approximately $9 million of Title I funds.

20. In order to insure proper expenditures of Title I funds, in accordance with the intent of the Act and with the requirements of the Constitution of the United States, the defendants and their predecessors have promulgated various regulations and program guidelines, all of which have the force of law and are binding upon the defendants and state and local officials whose agencies receive and dispense Title I funds.

21. In addition to the status of these regulations and program guidelines as legal requirements, they also are enforceable as contract provisions which have been agreed to by the USOE and the Providence School District and the interim State Agency for the benefit of the members of the plaintiff class.

22. Under 45 C.F.R. 116.18(f) defendants have an affirmative obligation to:

> ". . .provide for the maximum practical involvement of parents of educationally deprived children in the area to be served in the planning, development, operation, and appraisal of projects. . ."

In discharging this responsibility under Title I defendants must provide for the substantial and direct participation of parent members of the plaintiff class in the formulation and implementation of the Title I Project.

23. The Providence School District first received Title I funds for the 1965-66 school year. During the first year there was no parent participation in the Title I project. Similarly, during the two subsequent school years, 1966-67 and 1967-68, parents did not participate in the Title I decision making process.

24. On March 18, 1968, the USOE promulgated Program Guide Number 44, requiring local educational agencies to consult with parents on the "priority needs of educationally deprived children in the eligible attendance areas (target populations). Program Guide Number 44 further requires that "it is essential that . . .parents. . .be involved in the early stages of program planning and in discussions concerning the needs of children in the various eligible attendance areas." During July, 1968, the USOE issued Program Guide Number 46, and 46A further explicating and expanding the parent participation requirement for Title I, including direct parent participation in the development of proposals and appraisal of programs. The requirement was made a regulation on November 28, 1968. 45 C.F.R. 116.18(f).

25. On August 13, 1968, defendant Providence School Department officials, established a Parent Advisory Committee (hereinafter PACT) composed of parents, representatives of the Providence School Department, and representatives from Model Cities, and the local anti-poverty agency, Progress for Providence. All members of the committee including the parent representatives were individually selected by defendant Providence School Department officials or their predecessors. William Gannon, Title I Director for Providence at the time, was elected chairman.

26. PACT met eight times during the 1968-69 school year. During the year defendant Providence School Department officials and their employees constituted a majority of the voting membership attending meetings regularly. A number of the parents selected by defendants were in the employ of the Providence School Department.

27. In January of 1969 a parent was elected chairman of PACT. During the period from January to June of 1969, additional parents living in eligible attendance areas, whose children were being served by Title I and who were not employed by or otherwise affiliated with the Providence School Department, became members of PACT.

28. At the March and April, 1969, monthly meetings the parent members of PACT recommended to defendant school department officials that the school clinic program budget be expanded so that the programs would be able to:

(a) Operate 12 months a year, (b) service the Smith Hill area, (c) and service 12-14 year olds who are potential school drop-outs.

29. In July of 1969, the parent members of PACT, after learning that their school clinic recommendation had been summarily rejected, without notice or explanation, quit their positions in protest of defendants' refusal to consider their recommendations and afford them any "practical involvement" in the "planning, development, operation and appraisal" of the Title I project. The parents also quit their positions in protest of defendants refusal to allow them to examine the 1969-70 school year project application prior to its August 1st submission to the interim State Agency.

30. In addition, on August 1, 1969, two of the parent members of PACT filed a suit in Superior Court of the State of Rhode Island asking the Court to enjoin the interim State Agency from approving or funding the 1969-70 school year Title

I project application until the parent representatives of PACT could examine the project application and make recommendations as required by law. 45 C.F.R. 116.18(f), Program Guide Number 46. The Court issued a Temporary Restraining Order.

31. On or about August 5, 1969, the parent representatives of PACT met with defendant Providence School Department officials and received a 1969-70 school year project application. Based upon receipt of the project application and assurances by the defendants that Title I parent participation requirements would be complied with in the future, the two parents allowed the suit described above to be dismissed, by consent, with prejudice.

32. Following conferences with defendants the parent representative of PACT proposed that the by-laws be amended to make all school department and Title I personnel non-voting (ex officio) members and to provide that PACT have a yeto power over project applications. The by-laws were so amended at the October 1969 meeting of PACT by unanimous vote, including the vote of defendant Casserly, and the acquiescence of defendant, Briggs, who was present.

33. At its February, 1970 meeting, PACT voted to investigate complaints about the Providence Title I programs brought to its attention by its parent members and other interested citizens.

34. On February 6, 1970, PACT requested information of defendant Briggs pertaining to the complaints brought to its attention. On February 24, 1970, the Chairman of PACT received from defendant Casserly a letter questioning whether PACT was legally constituted. On March 13, 1970, PACT's chairman received a letter from defendant Briggs expressing his dissatisfaction

with the committee in its then form and asserting his right as the Providence Superintendent of Schools to reconstitute PACT to his view of the needs of the Providence School District.

35. On April 7, 1970, defendant Briggs announced publicly that he no longer recognized PACT and that he would not recognize it until it was reorganized, adopted new by-laws, and reinstated school department representatives as voting members. Defendant Briggs also announced publicly, if the prescribed reorganization did not occur, he would appoint and recognize a new and different committee.

36. At a meeting with PACT on April 21, 1970, defendant Briggs recognized PACT subject to the fulfillment of the following preconditions:

(a) that the new committee would consist of 30 parents and 10 professional representatives of the Providence School Department; (b) that defendant Briggs would have the right of disapproval of any parent member named to the Committee, (c) that each Committee member would have one vote; and (d) that new PACT by-laws would be adopted, which would omit PACT's veto power with respect to Title I project applications, and which would otherwise meet with defendant Briggs' approval.

37. Thereafter a list of parent members was submitted to and approved by defendant Briggs. On or about June 28, 1970 new by-laws were submitted to defendant Briggs which met the conditions imposed by him in every respect. As of the time of the filing of this Complaint, the by-laws have not been approved.

38. A number of plaintiffs in this action are members

of PACT and it is at present the only adequate medium for the organized expression of the interests of these parents and the class which they represent.

39. Despite the statutory requirements referred to in paragraph 22, above, and despite repeated requests for access to Title I project applications, the defendants have not permitted PACT or any other Providence parents or groups of parents to examine adequately such applications, except as noted below, immediately prior to their submission to the interim State Agency for its approval and findings.

40. The defendants did not permit PACT, or members of the plaintiff class to examine the Title I project application for the 1965-66 school year, the 1966-67 school year, the 1967-68 school year and the 1968-69 school year before each was submitted to, and approved, by the interim State Agency. At the August 13, 1968, organizational meeting of PACT, the Committee was permitted a few minutes in which to "review" the 1968-69 Title I programs.

41. PACT was permitted to examine the 1969-70 Title I project application only after two of its parent members filed a suit in the Superior Court of Rhode Island enjoining approval of the project application by the interim State Agency, until PACT was given the opportunity to examine it and make recommendations.

42. On or about May 11, 1970 PACT received copies of the summer project application for 1970, 4 days before it was to be submitted to the interim State Agency. PACT appealed to

defendant interim State Agency for more time in which to evaluate the 1970 summer program. This request was refused by defendant interim State Agency officials at a hearing on May 15, 1970. At the hearing, defendant Briggs made an oral promise to PACT that it would receive the 1970-71 school year project application by June 15, 1970, well in advance of the August 1, 1970 submission date to the state. PACT received the 1970-71 school year project application on July 27, 1970 or exactly 4 days before the August 1st submission date.

43. The terms and conditions of Title I projects must be made available by the Providence School Department and by the interim State Agency freely and publicly to any citizen upon request. Sec. 110. Section 106(a) Paragraph (8) of Title I, as amended; 45 C.F.R. 116.34(d); Program Guide Number 54.

44. Plaintiffs as citizens of Providence, are entitled to information on Title I program elements as a matter of legal right. Moreover PACT is entitled to any and all essential Title I program information that will assist it in performing its function of planning, development and appraisal of the Title I project in Providence.

45. Defendants have refused almost every request for information concerning program elements made by parent members of the plain tiff class. PACT, during the preceeding year, has repeatedly requested without success, program information, including past Title I Project applications, data on Title I salaried employees, equipment inventories, evaluations and test data from defendants. Correspondence by counsel for PACT to defendant Providence School Department officials and defendant interim State Agency officials has repeatedly included requests

for Title I program information. During April, 1970, parents of Title I children unsuccessfully sought information from defendant Briggs directly after defendant Briggs had publicly announced he would not release any Title I information until PACT was reorganized.

46. The defendants have deprived the adult plaintiffs of their right to maximum practical involvement in the formulation, implementation, and evaluation of Title I programs by failing and refusing to:

(a) recognize and consult with PACT as described in paragraphs 23 through 37 above; (b) make the project application reasonably available as described in paragraphs 40 through 42 above; (c) and make Title I program information available as described in paragraph 45 above.

47. Section 105(a)(1) of Title I provides that projects must be "designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low income families." 20 U.S.C., Sec. 241e. USOE has interpreted this section to mean that local educational agencies must calculate the percentages of low income children for each school attendance area (usually a single school) in the school district, and target Title I services only to those school attendance areas that have percentages of low-income children which are as high or higher than the percentage of such children in the school district as a whole. Program Guide Number 44.

48. For school year 1969-70 defendant Providence School Department officials or their predecessors selected schools as targets for Title I services that had percentages of

low income children that were less than the percentage of such children in the school district as a whole.

49. The Providence School District Title I project application for the 1970-71 school year employs a method of determining the eligibility of school attendance areas for Title I services which fails to ensure that those services will be targeted only to those schools which have a percentage of low-income children which is as high or higher than the percentage of such children in the district as a whole. According to the formula employed by defendant Providence School Department officials, any child, regardless of the wealth of his family, who resides in one of the 16 of a total of 37 census tracts in Providence which contain the largest percentages of families receiving aid to dependent children payments, (hereinafter low income census tracts) is counted as a low income child for purposes of targeting Title I funds. Schools are then ranked and made eligible for Title I services on the basis of the number of children from "low income census tracts" and not on the basis of the number of children from low income families as required by the Title I statute and guidelines. See # 47. Further, most of the "low income census tracts" contain only 9-14 percent families receiving aid to dependent children assistance.

50. The Title I Act, regulations and guidelines require that Title I funds be used only to supplement and not supplant state and local funds. Sec. 109(a) Paragraph (3) of section 105(a) of Title I as amended. Program Guide Number 44, Guideline 7.1,

explains these principals and states, in relevant part:

> "Title I funds, therefore, are not to be used to supplant State and local funds which are already being expended in the project areas or which would be expended in those areas if the services in those areas were comparable to those for non-project areas. This means that services that are already available or will be made available for children in the non-project areas should be provided on an equal basis in the project areas with State and local funds, rather than with Title I funds." See also Program Guide # 57.

Federal funds must be additive, and purchase education services for the children of the plaintiff class which are not available to ineligible children or to the general school population.

51. In Providence the remedial reading program is financed by both Title I and the Providence School Department. Remedial reading teachers in eligible, target schools are paid out of Title I funds, whereas remedial teachers in ineligible non-target schools are paid out of the Providence school budget.

52. The special education program is financed by both Title I and the Providence School Department. Special education services provided from Title I funds to eligible, target children are provided from city funds to both eligible and ineligible children in the district.

53. On information and belief, the guidance service provided in certain target schools by Title I funds is substantially the same as that provided in other schools in Providence from city funds.

54. Title I funds may not be expended on ineligible or non-target children, 45 C.F.R. 116.17(a). Title I funds cannot be used as general aid benefiting the general school population. The speech and hearing component of the Title I

special education program for the school year 1970-71, provides in certain grades for the testing of the general school population.

55. The Title I Act and regulations require that Title I projects be "designed to meet the special educational needs of educationally deprived children" and that they be "of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting those needs . . ." 20 U.S.C. Sec. 241e Program Guide Number 44, Guideline 4.7 states that:

> "The greater the concentration of effort, as indicated by investment per child, the greater the likelihood that the program will have a significant impact on the children in the program. The investment per child on an annual basis for a program of compensatory educational services which supplement the child's regular school activities should be expected to equal about one-half the expenditure per child from State and local funds for the applicant's regular school program."

56. According to the 1970-71 school year project application the average per pupil expenditure from non-federal funds was $869.85 for 1968-69 school year and $901.46 for the 1969-70 school year. On information and belief, the average per pupil expenditure from non-federal funds for the 1970-71 school year will exceed the $901.46 per pupil spent during the 1969-70 school year. The average overall Title I expenditure per participating child in Providence in school year 1970-71 is approximately $200.00. This amount represents less than one-quarter of the non-federal expenditure.

57. A local educational agency administering a Title I Program must make provision for evaluating the program's effectiveness in meeting the special educational needs of children. 20 U.S.C. Sec. 241e. Defendants, Providence School

Department officials have failed to provide for independent and objective evaluation of the Title I project.

58. A state educational agency must conduct periodic audits and evaluations of the Title I programs in effect in each local school district in the state, and approve project applications submitted by the local educational agency on the basis of the applicable laws, regulations, guidelines, contracts, and assurances of the local educational agency. 45 C.F.R. Sections 116.31(f) and 116.48. On information and belief, defendant interim State Agency has substantially failed to implement the foregoing requirements with respect to the Title I program of the Providence School Districts.

59. The USOE may approve a Title I project application from a state educational agency only after it has determined that the state's programs and projects will be administered and carried out in a manner consistent with the objectives and requirements of the Act. 20 U.S.C. Sec. 241e(c)(1). That is,USOE must conduct audits, evaluations and do whatever else is necessary to insure the proper expenditure of Title I funds in each state. Defendants Richardson, Bell and Fairley and their predecessors have substantially failed to implement the foregoing requirements with respect to the Title I program of the Providence School District.

60. The acts and practices of the defendants as described in this complaint have included:

(a) Failure and refusal to consult or otherwise constructively involve, as described in paragraphs 22 through 42 above;

(b) Failure and refusal to furnish information, as described in paragraph 45 above;

(c) Failure and refusal to: (1) employ proper targeting procedures, (2) to use Title I funds to supplement state and local funds, (3) to use Title I to service eligible children only, (4) to properly concentrate Title I funds and (5) to provide for objective evaluations; defendants' acts and practices have deprived the adult plaintiffs of the right to maximum practical involvement in the formulation, implementation, and evaluation of Title I programs, and have deprived minor plaintiffs of the full educational benefits afforded them by Title I all in violation of rights secured to the plaintiffs by the laws of the United States.

61. There are reasonable grounds to believe that, unless enjoined by this Court, the defendants will continue to deprive plaintiffs of rights secured to them by the laws of the United States in the manner described in this Complaint and otherwise. Plaintiffs and their class have adequate remedy at law to redress the wrongs alleged herein.

WHEREFORE, plaintiffs, respectfully pray that this Court enter judgment granting plaintiffs:

(a) A declaratory judgment that defendants acts, policies and practicies complained of violate the laws, regulations, guidelines, contracts and assurances cited herein.

(b) A preliminary and permanent injunction providing for defendant interim State Agency officials to conduct periodic audits and evaluations of Title I programs in effect in the Providence School District in order to ensure compliance with the laws, regulations, guidelines, contracts, and assurances cited herein;

(c) A preliminary and permanent injunction preventing defendant interim State Agency officials from approving Title I project applications in the future, submitted by the Providence School District, if said district is not complying with the laws, regulations, guidelines, contracts and assurances cited herein.

(d) A preliminary and permanent injunction preventing federal defendants, from approving Title I project applications in the future, submitted by the interim State Agency officials if said defendants are not complying with the laws, regulations, guidelines, contracts and assurances cited herein.

(e) A preliminary and permanent injunction providing that defendants' Briggs, and the Providence School Committee reallocate illegally expended Title I monies to lawful Title I projects;

(f) Appoint a special master to administer the Title I project in the Providence School District until such time as defendants comply with the laws of the United States and the regulations, guidelines, contracts and assurances cited herein;

(g) A preliminary and permanent injunction providing that defendant Providence School Department officials, and defendant Providence School Committee expend Title I funds for supplemental educational services for target children; expend Title I funds to meet the special educational needs of target children; expend Title I funds for eligible, target children only; select target schools in accordance with the regulations; and concentrate Title I funds in accordance.

(h) A preliminary and permanent injunction providing that defendant Providence School Department officials establish an information program that will provide the plaintiff class and other interested citizens with the following information:

1. Provisions of the Title I law, regulations, and guidelines (both federal and state).

2. The local education agency's past and present Title I project applications, program descriptions, budgets, evaluations, complaints, correspondence and other supporting documentation.

3. Current information on Title I projects and programs that the LEA is conducting.

4. The LEA's plans for future Title I projects and programs together with a description of their planning and developing processes, and dates at which each stage of the process will start and will be completed.

5. Other Federal, state and local programs that may be available for meeting the special educational needs of educationally deprived children.

6. Past and present inventories of equipment purchased from Title I funds.

7. Systemwide budgets submitted by the LEA's for all years since 1964.

8. School by school breakdowns of Title I and other expenditures -- particularly with regard to instructional expenditures.

(i) A preliminary and permanent injunction providing that defendant Providence School Department officials involve the plaintiff class in the Title I project by ensuring that the parent advisory council may perform the following functions:

1. Supply information concerning the views of parents and children about unmet educational needs in the Title I project areas and establish priorities among these needs.

2. Recommend a general plan for the concentration of funds in specific schools and grade levels.

3. Participate in the development of proposals that are particularly adapted to bridging the gap between the needs of the pupils and the curriculum of the school.

4. Act as a hearing committee for suggestions to improve the compensatory educational program.

5. Hear complaints about the program and make recommendations for its improvement.

6. Be involved in the planning and evaluation of the summer and school year program throughout the year.

7. Review and solicit applications, interview candidates, and make recommendations for professional and non-professional Title I positions. Final authority to hire such personnel shall vest in the school committee.

(j) Retain jurisdiction in this action until such time as defendants comply with the laws of the U.S., and the regulations, guidelines, contracts and assurances cited herein.

(k) Award plaintiffs their costs and;

(l) Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

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IV. STANDING AND JURISDICTION

IV. STANDING & JURISDICTION

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF RHODE ISLAND

ROBERTA BABBIDGE, et al,)
Plaintiffs,)
vs.) C. A. No. 4410
ELLIOT L. RICHARDSON et al,)
Defendants.)

PLAINTIFFS' MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTIONS FOR DISMISSAL AND SUMMARY JUDGMENT

Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. § 241 a et. seq. as amended April, 1970 (hereafter "Title I") signified a revolutionary change in the role of the federal government in American education. For the first time, the federal government expressly undertook responsibility for meeting the special education needs of poor and educationally deprived children. 20 U.S.C.§ 241a. As defined by the regulations promulgated under Title I educationally deprived children means:

> "those children who have need for special educational assistance in order that their level of educational attainment may be raised to that appropriate for children of their age. The term includes children who are handicapped or whose needs for such special educational assistance result from poverty, neglect, delinquency, or cultural or linguistic isolation from the community at large. 45 C.F.R. § 118. 1(i).

Title I provides that the U.S. Commissioner of Education will make lump sum payments to state educational agencies who, in turn, approve and fund projects proposed by local school districts for the educationally disadvantaged children. 20 U.S.C.§§ 241b and 241e. Responsibility for the administration of Title I funds is divided among the U. S. Office of Education and state and local educational agencies, see, e. g. U. S. S.§§ 241b, 241e, 241f, and 241g. In their project application for Title I funds, the local educational agencies must set forth their plans in detail, including a budget, identification of areas having high concentrations of children from low income families (target areas) and plans for evaluation of the project. See, e.g. 20 U.S.C. 241e. Money is available for a broad range of projects, but under the law, any project must be compensatory in character. This means the project must help eradicate the educational deficiencies of eligible children. See, e.g. Program Guide #44 (Appendix A herein); 20 U.S.C. 241e(a)(1). Applications are not made to the Office of Education, but to the state department of education, which has the duty of ensuring that the projects, as planned and as implemented, conform to all applicable regulations, see, e.g. 45 C.F.R. 116.31. This state responsibility includes establishment of standards and procedures for accounting, provision for annual audits of state and local expenditures, investigation of complaints, and periodic evaluation of the effectiveness of local projects. [See, e.g. 45 C.F.R., Sec. 116.48]. The Office of Education, aside from having primary responsibility under the Act for promulgating regulations and guidelines, also must satisfy itself through periodic audits of state and local expenditures, evaluations or whatever else is necessary, that the law and regulations are being followed. See. e.g. 20 U.S.C. § 241j. Where violations are discovered, the Commissioner of Education may withhold funds, reject state applications or seek the return of the illegally used monies. See e.g. 20 U.S.C. §§ 241e, 241f, and 241j.

While the state educational agencies have the authority of approving or disapproving local Title I project applications, the states must make their determinations on the basis of criteria established by the Act itself and such "basic criteria as the Commissioner may establish",[1] 20 U.S.C. 241e. The Commissioner has promulgated his criteria in the form of regulations and guidelines. e.g. 45 C.F.R. 116, Title I Guidelines 1-60. Those criteria pertinent to the instant suit include:

> (a) "the maximum" practical involvement of parents of educationally deprived children in the area to be served in the planning, development, operation, and appraisal of [Title I] projects 45 C.F.F. 116.18(f).
>
> (b) that the terms and conditions of Title I projects must be made available by local and state educational agencies freely and publicly to any citizen upon request 20 U.S.C. 241e (a)(8); 45 C.F.R. 116.34(d); Program Guide # 54.
>
> (c) projects must meet the needs of educationally deprived children living in school attendance areas (or enrolled in schools) with high concentrations of children from low income families; those areas (or schools) where the concentration of such children is as high or higher than the average concentration for the district as a whole. Program Guide # 44, 1.1; 45 C.F.R. 116.17(c) and (d); 20 U.S.C. 241e (a)(1).
>
> (d) Title I funds must be additive and purchase educational services not generally available through state and local funds to the general school population. 20 U.S.C. 241e(a)(3); 45 C.F.R. 116.17(h); Program Guide # 44, 7.1.
>
> (e) Title I funds may only be expended for eligible educationally deprived children. 45 C.F.R. 116.17 (g); Program Guide # 44, 4.2.
>
> (f) Title I services must be "concentrated on a limited number of children" Program Guide # 44, 4.7; 20 U.S.C. 241c(a)(1); 45 C.F.R. 116.18(e).

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[1] Unfortunately, at least one study has concluded that millions of dollars of Title I funds have been misused and the U.S. Office of Education has been reluctant to seek compliance. See Martin and McClure. Title I of ESEA: Is it Helping Poor Children? (Revised 2nd Edition, 1969).

(g) Local educational agencies must make provision for evaluating the program's effectiveness in meetthe special educational needs of children. Program Guide # 44,§ 6.1; 20 U.S.C. §241e(a)(6); 45 C.F.R. § 116.22

(h) State educational agencies must conduct periodic audits and evaluations of the Title I programs to insure conformance with the law. 45 C.F.R.§§ 110.31(f), 116.31(g) and 116.48;

(i) U.S.O.E. must conduct audits, evaluations, and do whatever else is necessary to insure the proper expenditure of Title I funds in each state. 20 U.S.C. § 241; 45 C.F.R. §§ 116.48(b) and 116.52. Title Report, supra.

The present suit is brought by parents of educationally disadvantaged children on behalf of themselves and their children, and on behalf of the parents of all other educationally deprived children of Providence, Rhode Island and their children. The defendants are federal, state and local officials charged with administering the Title I funds in Providence, Rhode Island. The basic complaints are: (1) inadequate parental involvement; (2) refusal to permit inspection of relevant Title I information; (3) general misuse of Title I funds, particularly use of Title I funds for the benefit of ineligible children and use of Title I funds to purchase for poor children what state and local funds purchase for others; and (4) the failure of state and federal Title I officials to effectively evaluate and audit the Title I program in Providence. The suit questions the spending of approximately nine million ($9,000,000.00) dollars in Title I funds since 1965, both as a matter of conformity to federal statutes, regulations and guidelines which have the force of law.

This case is presently before the Court on various motions for dismissal or summary judgment filed by the respective defendants. The defendants rely in part upon the affidavit of Terrell Bell, Acting Commissioner of Education. Plaintiffs have submitted the affidavit of Mrs. Patricia Overberg. The basic issues presented by these motions concern: (a) standing; and (b) jurisdiction.

The basic grounds presented by defendants' motions were considered and rejected by the court in Colpitts et al v. Richardson et al, C.A. No. 1838 (DC Me. 10/20/70) (See copy of bench decision Appendix B. herein) In Colpitts Judge Gignoux determined that parents of educationally disadvantaged children have standing to sue federal, state, and local school officials to enforce Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 241a, et seq., and that federal courts have jurisdiction over such an action. The allegations of the Maine complaint are substantially the same as those before the court and were found to state a cause of action against all defendants. Since Colpitts represents the only precedent, plaintiffs will not rely upon it solely but will treat individually and generally all of the grounds raised by defendants.

I. PLAINTIFFS HAVE THE REQUISITE STANDING TO CHALLENGE THE MISUSE OF TITLE I FUNDS

In Associations of Data Processing Service Organizations, Inc. v. Camp, 397 U.S. 150 (1970) and Barlow v. Collins, 397 U.S. 159 (1970), the Supreme Court recently articulated a three-part test for determining standing:

(1) Is there an allegation of "injury in fact", economic or otherwise?

(2) Is the interest sought to be protected arguably within the zone of interests to be protected or regulated by the statute in question?

(3) Is judicial review precluded?

Applying the above tests to the instant case make it clear that plaintiffs have the requisite standing. First, the "injury in fact" test has been met. The complaint alleges that plaintiffs have been deprived of their rights and privileges under Title I and that as a result plaintiffs' children have been denied educational benefits.

Second, there can be no doubt that the plaintiffs are in the zone of interests sought to be protected by Title I. Plaintiffs are low income parents who sue on behalf of themselves, their educationally deprived children and all other educationally deprived children and their parents. Many of the plaintiffs are parents of children already participating in Title I programs. The language of the statute itself makes it clear that the plaintiffs are in the category of those Congress intended to benefit:

> "In recognition of the special educational needs of children from low income families and the impact that concentrations of low income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance . . .to local educational agencies serving areas with concentrations of children from low income families to expand and improve their educational programs by various means (including pre-school programs) which contribute particularly to meeting the special educational needs of educationally deprived children." 20 U.S.C. §241a. (Emphasis added).

In Association, supra, the Court said "where statutes are concerned the trend is toward enlargement of the class of people who may protest administrative action." 397 U.S. 154. For this reason any doubts concerning standing should be resolved in favor of plaintiffs. In People v. United States Department of Agriculture, 427 F. 2d 561 (D.C. Cir. 1970) where poor people challenged the administration of various food stamp and commodities distribution statues, the court said 563, 564:

> The pertinent principles on the subject of standing, have been reviewed and restated in our recent en banc decision in Curran v. Laird, 420 F. 2d 122 (1969) which discussed the recent Supreme Court precedents and underlying principles. These principles establish a presumptive standing, operative unless negatived by a statutory provision, which permits a complaint, alleging that executive programs unlawfully deviate from statutory requirements to be filed by those who were intended beneficiaries of the statutory provisions, even though they are not the primary beneficiaries of the statute.

> There can be little doubt that the plaintiffs were in the category of those Congress intended to benefit in the food stamp program. This appears plainly from 7 U.S.C. § 2011 (1964), wherein Congress declared:
>
> > 'It is hereby declared to be *the policy of Congress, in order to promote the general welfare that the Nation's abundance of food should be utilized. . .to safeguard the health and well-being of the Nation's population and raise levels of nutrition among low income households. . .'*
>
> The principles of standing discussed above establish the standing of poor people to complain of illegal departures by the Secretary from the Congressional plan, since they are an intended beneficiary of Congress, and this principle is neither undercut by the fact that the farmers were also beneficiaries, nor dependent on some process of appraisal to determine whether the poor people weighed heavier in scales than the farmers, or which would be labeled the primary beneficiaries. (Emphasis added).

See also, *Environmental Defense Fund, Inc. v. Ruckelshaus*, 39 U.S.L.W. 2389 (DC Cir. 1/7/71); *Environmental Defense Fund, Inc. v. Hardin*, 428 F. 2d 1093 (DC Cir. 1970); *North City Area Wide Council, Inc. v. Romney*, 428 F. 2d 754 (3rd Cir. 1970) (Sustaining challenge to noncompliance with Model Cities community participation requirements); *Curran v. Laird*, 420 F. 2D 122 (DC Cir. 1969); *Wingate Corp v. Industrial National Bank*, 408 F. 2d 1147 (1st Cir. 1969) cert. den. 397 U.S. 987 (1970); *Gomez v. Florida State Employment Service*, 417 F. 2d 569 (5th Cir. 1969); *Scenic Hudson Preservation Conf. v. Federal Power Commission*, 354 F. 2d 608 (2d Cir. 1965) cert. denied *Consolidated Edison Co. v. Scenic Hudson Preservation Conference*, 384 U.S. 941 (1966).

Third, judicial review is nowhere precluded.[2] Although defendants have the burden of demonstrating preclusion, See, e.g. Abbott Laboratories v. Gardner, 387 U.S. 136 (1967) they have not attempted to do so. As the Court said in Barlow, supra, at 166, 167:

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[2] Indeed the Administrative Procedure Act, 5 USC 703 (1964 ed. Supp. IV) would seem to encourage judicial review an may even provide an independent source of jurisdiction for the Court. See, eg. *Brennan v. Udall*, 379 F. 2d 803 (10th Cir.) cert. denied, 389 US 975 (1967) *Coleman v. United States*, 363 F. 2d 190 (9th Cir. 1966) aff'd on rehearing 379 F. 2d 555 (1967) rev'd on other grounds, 390 U.S. 599 (1968) *Cappadira v. Celebrezze*, 356 F. 2d 1 (2nd Cir. 1966); *Estradal v. Ahrens*, 296 F. 2d 690 (5th Cir. 1961).

> Preclusion of judicial review of administrative action adjudicating private rights is not to be lightly inferred. See, Leedom v. Kyne, 358 U.S. 184; Harmon v. Brucker, 355 U.S. 579; Stark v. Wickard, 321 U.S. 288; American School of Magnetic Healing v. McAnnulty, 187 U.S. 94. Indeed, judicial review of such administrative action is the rule, and nonreviewablility an exception which must be demonstrated. In Abbott Laboratories v. Gardner, 387 U.S. 136, 140, we held that "judicial review of a final agency action by an aggrieved person will not be cut off unless there is persuasive reason to believe that such was the purpose of Congress." A clear command of the statute will preclude review; and such a command of the statute may be inferred from its purpose. Switchmen's Union v. National Mediation Board, 320 U.S. 297. It is, however, "only upon a showing of 'clear and convincing evidence' of a contrary legislative intent" that the courts should restrict access to judicial review Abbott Laboratories v. Gardner, supra, at 141.

Despite the above cited principles, the federal and local defendants contend that review is precluded because the U.S. Office of Education of the Department of Health, Education, and Welfare has exclusive jurisdiction at this time to review questions as are raised in plaintiffs' complaint and that it is presently investigating the problems presented therein.[3] This exact argument was specifically rejected in a similar context by the Supreme Court in Rosado v. Wyman, 397 (1970). There the statutory relationship between HEW and the state under the Social Security Act was substantially analagous to that present in the instant case under the applicable Title I Section.

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[3] Mrs. Overberg's affidavit clearly refutes the additional contention of the local defendants that no complaints were ever made to defendants.

Compare 20 U.S.C. § 241j with 42 U.S.C. § 604.[4] Relying on the principles set forth in Association, supra, and Barlow, supra, the court rejected any preclusion of jurisdiction and Justice Harlan said at 397 U.S.:405:

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[4] 20 U.S.C. § 241; reads:

Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under § 241e(c), 241(b), or 241h-1(b) of this title, the Commissioner shall notify the agency that further payments will not be made to the State under this subchapter (or, in his discretion, that the State educational agency shall not make further payments shall be made to the State under this subchapter, or payments by the State educational agency under this subchapter shall be limited to local educational agencies not affected by the failure, as the case may be.

42 U.S.C. § 604 reads:

(a) In the case of any state plan for aid and services to needy families with children which has been approved by the Secretary, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan finds-

(1) that the plan has been so changed as to impose any residence requirement prohibited by section 602(b) of this title, or that, in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases, or

(2)that in the administration of the plan there is a failure to comply substantially with any provision required by section 602(a) of this title to be included in the plan;

The Secretary shall notify such State agency that further payment will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the state plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payment to categories under or parts of the State plan not affected by such failure.

A further reason given to support the contention that that the District Court should have declined to exercise jurisdiction is that the Department of Health, Education, and Welfare was the appropriate forum,at least in the first instance, for resolution on the merits of the questions before us, and that at the time this action came to Court HEW was"engaged in a study of the relationship between Section 602(a)(23) and Section 131-a." 414 F. 2d at 176 (opinion of Judge Hays). Petitioners answer, we think correctly, that neither the principle of "exhaustion of adminstrative remedies" nor the doctrine of "primary jurisdiction" has any application to the situation before us. Petitioners do not seek review of any administrative order, nor could they have obtained an administrative ruleing since HEW has no procedures whereby welfare recipients may trigger and participate in the Department's review of state welfare programs. Cf. Abbot Laboratories v. Gardner, 387 U.S. 136, 87 S.Ct. 1507, 18 L. Ed. 2d 681 (1967); K. Davis, Administrative Law § 19.01 (1965); L. Jaffe, Judicial Control of Administrative Action 425 (1965).

and further at 397 U.S. 420:

We have considered and rejected the argument that a federal court is without power to review state welfare provisions or prohibit the use of federal funds by the States in view of the fact that Congress has lodged in the Department of HEW the power to cut off federal funds for noncompliance with statutory requirements. We are most reluctant to assume Congress has closed the avenue of effective judicial review to those individuals most directly affected by the administration of its program. Cf. Abbot Laboratories v. Gardner, 387 U.S. 136, 87 S. Ct. 1507, 18 L.Ed. 2d 681 (1967); Association of Data Processing v. Camp, 397 U.S. 150, 90 S.Ct. 827, 25 L.Ed. 2d 827 (1970); Barlow v. Collins, 397 U.S. 159, 90 S.Ct. 832, 25 L. Ed. 2d 192(1970).

and further at 397 U.S. 422:

It is, on the other hand, peculiarly part of the duty of this tribunal, no less in the welfare field than in any other areas of the law, to resolve disputes as to whether federal funds allocated to the State are being expended in consonance with the conditions that Congress has attached to their use. As Mr. Justice Cardozo stated, speaking for the Court in Helvering v. Davis, 301 U.S. 619, 645, 57 S.Ct. 904,910, 81 L. Ed. 1307 (1937): "When [federal] money is spent to promote the general welfare, the concept of welfare or the opposite is shaped by Congress not the states."

Similarly, Commissioner Bell's affidavitt implicitly recognizes that there are no procedures under Title I whereby plaintiffs "may trigger and participate" in any review by the Office of Education of state and local Title I programs.[5] As the affidavit indicates, the Office of Education at best announces its receptiveness to complaints, and expresses its willingness to look into them the next time it visits the state. Until that time the status quo remains and the aggrieved party has absolutely no guarantee that his Title I complaint will be reviewed.[6] As the complaint and Mrs. Overberg's affidavit indicate, numerous complaints have been made to no avail. If review is deferred now, the plaintiffs will be without a remedy. Thus under these circumstances, where it is alleged that plaintiffs rights continue to be violated, it is clear that delayed judicial enforcement is unwarranted. See, e.g. *Rosado v. Wyman*, supra, *Lewis v. Martin*, 397 U.S. 902 (1970); *King v. Smith*, 392 U.S. 309 (1968); *Bossier Parish School Board v. Lemon*, 370 F. 2d 847 (5th Cir. 1967); cert. denied 388 U.S. 911 (1967); *Shepheard v. Godwin*, 290 F. Supp. 869 (DC Va. 1968); *Gautreaux v. Chicago Housing Authority*, 265 F. Supp. 582 (DC Ill. 1967).

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[5] In his concurring opinion in Rosado, supra, Justice Douglas described at 397 U.S. 425 the impotence of private individuals obtaining review under the analagous provisions of the Social Security Act:

"The fact that the Department of Health, Education, and Welfare is studying the relationship between the contested provision of the New York statute and the relevant section of the Social Security Act is irrelevant to the judicial problem. Once a State's AFDC plan is initially approved by the Secretary of Health, Education, and Welfare, federal funds are provided the State until the Secretary finds, after notice and opportunity for hearing to the State, that changes to the plan or the administration of the plan are in conflict with the federal requirements. Social Security Act § 404(a), 49 Stat. 628, as amended, 42 U.S.C. § 604 (a) (1964 ed., Supp. IV.)

The statutory provisions for review by HEW of state AFDC plans do not permit private individuals, namely present or potential welfare recipients, to initiate or participate in these compliance hearings. Thus, there is no sense in which these individuals can be held to have failed to exhaust their administrative remedies by the fact that there has been no HEW determination on the compliance of a state statute with the federal requirements. . . .HEW has been extremely relectant to apply the drastic sanction of cutting off federal funds to States which are not complying with federal law. Instead, HEW usually settles its differences with the offending States through informal negotiations. See. Note, Federal Judicial REview of State Welfare Practices, 67 Col. L. Rev. 84, 91-92 (1967).

Whether HEW could provide a mechanism by which welfare recipients could theoretically get relief is immaterial. It has not done so, which means there is no basis for the refusal of federal courts to adjudicate the merits of these claims. Their refusal to act merely forces plaintiffs into the state courts which certainly are no more competent to decide the federal question than are the federal courts."

Finally, with respect to standing, the defendants contend that certain relief requested by the complaint is inappropriate making the complaint dismissable. The basic objection concerns the request for an injunction compelling the federal defendants to withhold future Title I funds for Providence if state and local defendants do not comply with the applicable laws, regulations and guidelines. Plaintiffs agree such a remedy would be drastic and hopefully not required. But,under any circumstance the relief requested is not relevant to the present motions. It is clear that under the Federal Rules of Civil Procedure:

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[6] Indeed, HEW has itself recognized both the effect of *Rosado*, and the ineffectiveness of its own administrative process.

"*Rosado*, of course, makes it clear that it would be improper to require appellees to wait upon conclusion of the federal state negotiations for resolution of the conformity issue they have raised. Ibid. As this Court intimated, the practical consequences of the Secretary's initiating action to cut off funds are so extreme that even the threat of such an action cannot be made lightly; he believes such pressures are not to be exerted except as a last resort. In view of the negotiations which must precede them, and the delays made inevitable by the multitude of state plan amendments and administrative matters which must be considered each year, speedy resolution of such issues within the federal administrative process is not to be expected." HEW Brief Amicus Curiae in *Wyman v. Rothstein*, 398 U.S. 275 (1970) page 12, n. 8.

> A prayer for relief constitutes no part of the pleader's cause of action; a pleading should not be dismissed for legal insufficiency unless it appears to a certainty that the claimant is entitled to no relief, legal and/or equitable, under any state of facts which could be proven in support of the claim, irrespective of the prayer for relief. 6.Moore's Federal Practice, Section 54, 60 p. 1208 (1968).

See, also, Norwalk Core v. Norwalk Redevelopment Agency, 395 F. 2d. 920, 925 (2d Cir. 1968), Schoonover v. Schoonover, 172 F. 2d. 526, 530 (10th Cir. 1949).

II. JURISDICTION

A. The Court Has Jurisdiction Over Both Federal and State Defendants Under the "Federal Question" Jurisdictional Statute, 28 U.S.C. Section 1331(a).

28 U.S.C. Section 1331(a) reads as follows:

> "The district courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, and arises under the Constitution, laws, or treaties of the United States."

(1) The Matter in Controversy For Each Plaintiff Exceeds the Sum Or Value of Ten Thousand ($10,000.00) Dollars.

Plaintiffs have alleged that the amount in controversy exceeds $10,000 exclusive of interests and costs as required by 28 U.S.C. § 1331(a). Plaintiffs submit that the "right to an education" secured to each plaintiff by Title I is such a precious and important right as to confer jurisdiction. This contention has been accepted by Judge Gignoux in *Colpitts v. Richardson*, supra: While direct monetary loss to each plaintiff from misuse of Title I funds might be less than $10,000, the lost educational opportunities resulting from the unlawful expenditure of Title I funds, and the impact of that loss on a recipient's personality and life prospects, should be valued at greatly in excess of $10,000. A national survey of earnings as they relate to educational levels found that high school graduates earned more than $30,000 above the earnings of non-graduates over thier working life. Sexton, *Education and Income*, 13-15(1966). The difference between non-college and college graduates must be even greater. Title I is intended to meet the special educational needs of low income children and thereby to improve their performance in school and their prospects of attaining higher education. Title I, educational attainment, and life prospects are thus connected in such a way that diversion of Title I funds may indirectly cause more than $10,000 in damages for each plaintiff. Moreover, the right to an education is itself a precious individual right of incalculable value to the spiritual life of the individual, without which, delinquency, criminal behavior and other wastes of lives may result. These facts were recognized by President Johnson in his message to the Senate Committee considering Title I, See. Senate Report No. 146, 1965 U. S. Code Cong. & Admin. News. 1488-1449 (89th Cong. 1st Sess.)

Although concededly the total investment of Title I funds per pupil over a 12 year period of schooling is far below, $10,000, the amount in Controversy for purposes of 28 U.S.C. 1331 is far greater. Because plaintiffs are seeking injunctive relief instead of damages, the amount in controversy is the value of the right to be protected or the extent of the injury to be prevented. See. e.g. *Pennsylvania R. Co. v. City of Girard*, 210 F. 2d 437 (6th Cir. 1954); 1 Barron & Holtzoff, *Federal Practice and*

Procedure (Wright ed. Sec. 24 n. 54) The jurisdictional amount requirement is intended to give the United States District Courts jurisdiction in all "substantial controversies" where other elements of federal jurisdiction are present. S. Rep. No. 1830, 85th Cong. 2d Sess. (1958); 1958 U.S. Code & Cong. Adm. News, pp. 3099, 3101.

As Congress has expressly recognized that the right in question here is the right to adequate education. 20 U.S.C. Sec. 241a. For this reason, the Court should follow the lead of Judge Gignoux and numerous other courts that have approached jurisdictional amount quite flexibly when education has been involved. *Oestereich v. Selective Service System*, 393 U.S. 233 (1968); *Marquez v. Hardin*, 2 CCH Poverty Law Reporter, 11,304 (DC Cal. 1969) (School lunches); *Walsh v. Local Board No. 10*, 305 F. Supp. 1274;(DC NY 1967) (Judicial notice of pecuniary rewards of education); *Armendaris v. Hershey*, 295 F. Supp. 1351 appeal dismissed, 413 F.2d 1006 (5th Cir. 1969); *Connelly v. Univ. of Vermont, and State Agricultural College*, 244 F. Supp. 156, 159 (DC Vt. 1965)[7] Applying these principles defendants have failed to demonstrate to a legal certainty that the claim is really for less than the jurisdictional amount. See, e.g. *St. Paul Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283, 288 (1938)

(2) *The Claims Are Common and Undivided, and Therefore Aggregation is Possible*.

> "The settled rule is that when two or more plaintiffs having separate and distinct demands unite in a single

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[7] Because the viability of a state court claim against federal officials is questionable, inablility by plaintiffs to demonstrate jurisdictional amount or avail themselves of other jurisdictional sections, may raise serious questions concerning the constitutionality of 28 U.S.C.§ 1331(a). See *Murray v. Vaughn*, 300 F.Supp. 688, 695 (DC R.I. 1969).

> suit, it is essential that the demand of each be of the requisite jurisdictional amount; but when several plaintiffs unite to enforce a single title or right in which they have a common and undivided interest, it is enough if their interests collectively equal the jurisidctional amoung." Pinel v. Pinel, 240 U.S. 594, 596 (1916). See also Snyder v. Harris, 394 U.S. 332 (1969).

In Berman v. Narragansett Racing Association, Inc., 414 F. 2d 311 (1st Cir. 1969), a group of horseowners brought a class action to force race tracks to distribute a larger share of the purse money to the owners. The suit depended on a certain alleged contract right which the owners' collectively enjoyed against the track. If the owners were successful, the track's only obligation would be to pay a certain fund over to the owners as a group; the track had no obligation to make any distribution to individual owners. Thus, even though eventually each owner would receive a definite share of the money (apparently the owners would make the distribution among themselves), the owner's rights against the track were deemed by the Court to be common and undivided:

> ". . .these claims constitute in their totality an integrated right against the defendant. . .No contractual rights are created between the defendants and individual purse-winners, and plaintiffs make no specific claims for individual payment. . . Demonstrably, the instant case is not a collection of individual lawsuits brought solely for the convenience of the claimants. . ."Berman supra, at 315-316.

Applying the above analysis to the facts of the present case, it is clear that educationally deprived children have a common and undivided interest in the lawful expenditure of Title I funds generally. Plaintiffs are not making individual claims and simply joining them together for their own convenience. Dividing the total number of dollars received under Title I by the number of educationally deprived students is an artificial and unrealistic way of looking at each student's interest in the program. Each plaintiff is not demanding 1/20th of a Title I teacher, or 1/2 of a textbook, or 1/50th of an educational film.[8] Each plaintiff is demanding the supplemental educational services to which he is entitled, and this means a fully salaried teacher and the whole array of educational equipment and supplies nexessary to provide such services. Thus each educationally deprived child has a common and undivided interest in the total Title I grant to his school unit; and since Providence has received approximately 1.5 million dollars for each of the 5 years of the operation of Title I (see plaintiffs' Complaint, 19) the total amount in controversy is greatly in excess of $10,000.

B. 28 U.S.C. Sections 1343(3) and 1343(4) Provide Additional Independent Bases For Jurisdiction Over the State and Local Defendants.

Title 28 United States Code, Section 1343 provides:

> "The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:
>
> * * *
>
> (3) To redress the deprivation, under color of any State Law. . .of any right, privilege or immunity secured by. . .any Act of Congress providing for equal rights of citizens. . .;
>
> (4) To. . .secure equitable or other relief under an Act of Congress providing for the protection of civil rights.

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[8] In this sense, aggregation in the present case is even more justifiable than in Berman, supra, for in Berman, the fund would eventually be broken down into dollars and cents for each individual owner:" The interests of the plaintiffs, vis a vis the matter in controversy, are 'common and undivided' an the fact that their interests are separable among themselves is immaterial." Id, at 316.

42 U.S.C. Section 1983 provides:

> "Every person who, under color of any statute, ordinance, regulation, custom, or usgage of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, suit in equity, or other proper proceeding for redress.

This suit seeks to redress rights secured by Title I of the Elementary and Secondary Education Act of 1965 and the Civil Rights Act, 42 U.S.C. § 1983. The instant suit clearly falls within 42 U.S.C. § 1983 as it alleges action by the state and local defendants under color of state law[9] to deprive plaintiffs of rights and privileges guaranteed by Title I. See. e.g. Peacock v. City of Greenwood, 384 U.S. 808 (1964). Bomar v. Keyes, 162 F. 2d 136, 139 (2nd Cir. 1947). Subsection 1343(4) quite literally provides federal jurisdiction for any suit, as here seeking equitable relief under the Civil Rights Act, 42 U.S.C. Sec. 1983. Jurisdiction also exists under subsection 1343(3) since both Title I and Section 1983 are "Acts of Congress providing for equal rights of citizens" within the meaning of 1343(3).

Section 1343(4) provides that the district courts shall have original jurisdiction of any civil action "to secure equitable or other relief under any Act of Congress providing for the protection of civil rights" 42 U.S.C. § 1983 is commonly referred to as the Civil Rights Act with the clear purpose of protecting civil rights. See, e.g. Damico v. California, 389 U.S. 416 (1967);

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[9] Plaintiffs cannot understand how the city defendants can claim they have not acted under color of state law. Both city and state defendants,occupy official statutory positions. See, e.g. General Laws of R.I. 16-1-2, 16-2-11 and 16-2-25. In addition it is clear that all city and state defendants have acted in concert to meet the "state action" test of United States v. Price, 383 U.S. 787, 794 (1966).

McNeese v. Board of Education, 373 U.S. 868 (1963); Consequently any cause of action under Section 1983 is "under" an "Act of Congress providing for the protection of civil rights and Section 1343(4) quite literally provides federal jurisdiction, in the instant case. See, e.g. Hall v. Garson,430 F. 2d 569, 579, 580, (5th Cir. 1969); York v. Story, 324 F. 2d 450 (9th Cir. 1963) cert. denied 376 U.S. 939 (1964). Worrell v. Sterrett, 2 CCH Pov. L. Rep. Para. 10,474 (D.C. Ind. 10/4/69).

Subsection (3) of 28 U.S.C. Sec. 1343 is an additional independent basis for jurisdiction, granting the district courts original jurisdiction of any civil action to redress the deprivation under color of state law of any right secured by "any Act of Congress providing for the equal rights of citizens." The instant suit alleges that the State and local defendants have acted under color of state law to deprive plaintiffs of rights secured by two acts of Congress providing for the equal rights of citizens: Title I and 42 U.S.C. Sec. 1983.

It is clear that Title I is an equal rights statute. From the beginning, the primary function of Title I was to determine that no child should be denied equal educational opportunity because of poverty:

> TITLE I - GRANTS TO LOCAL PUBLIC SCHOOL DISTRICTS TO BROADEN AND STRENGTHEN ELEMENTARY AND SECONDARY SCHOOL PROGRAMS
>
> The need:
>
>> It has been apparent for some time that there is a close relationship between conditions of poverty and lack of educational development and poor academic performance. The 10 States with lowest per capita personal income in 1963 had selective service rejection rates for the mental tests well above the average for the 50 states for that year. The rate for these states ranged from 25 to 48.3 percent as compared to the national average of 21.6 percent. At the other extreme, school districts with the highest percentages of pupils qualifying for science awards, national scholarships, and college entrance tend to be found in high-income areas. Dropout rates follow an inverse ratio with income levels.

> Testimony presented to the committee illustrated sharply and starkly that the conditions of poverty or economic deprivation produce an environment which in too many cases precludes children from taking full advantage of the educational facilities provided. They have been conditioned by their home environment or lack thereof, so that they are not adaptable to ordinary educational programs. Environmental conditions and inadequate educational programs rather than lack of basic mental aptitude carry the major responsibility for the later failure of these children to perform adequately in the school system.
>
> The federal concern with poverty as a national problem is evidenced in recent major legislation passed by the Congress. Title I can be considered as another very potent instrument to be used in the eradication of poverty and its effects. Under Title I of this legislation the schools will become a vital factor in breaking the poverty cycle by providing full educational opportunity to every child regardless of economic background"
> Senate Report (Labor and Public Welfare Committee) No. 146, April 6, 1965, U.S. Code Cong. & Adm. New, 1446, 1449-1450 (89th Cong. 1st Sess.) (Emphasis added).

20 U.S.C. Section 241a makes it clear that the equal rights purposes described above are the continuing functions of Title I. Thus, since Title I is a law providing for equal rights, and this suit is one to redress the deprivation under color of state law of rights secured by that act, 28 U.S.C. Sec. 1343(3), provides a basis of jurisdiction.

In addition, it is clear that 42 U.S.C. Section 1983, the Civil Rights Act is an "Act of Congress providing for equal rights of citizens". Section 1983, while creating no substantive rights itself, provides a federal cause of action where state officials act to deprive any person of rights secured by the Constitution or laws of the United States, including rights under federal statutes like Title I. Gomez v. Florida Employment Service, supra. The reason for creating this federal cause of action "was to provide a remedy in the federal courts supplementary to any remedy any state court might have." McNeese v. Board of Education, supra at 672. Thus, Section 1983 is a law providing for equal rights by assuring that the federal rights of citizens will be equally respected on a nationwide basis, through equal enforcement powers in the state federal courts.[10] See Georgia v. Rachel, 384 U.S. 780, 792 (1966)(1983 is a law that "confer[s] equal rights.").

C. The Court Has Jurisdiction With Respect to Federal Defendants Under the "Mandamus" Statute, 28 U.S.C. § 1361.

28 U.S.C. § 1361 provides:

> "The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff."

Defendant Richardson is Secretary of HEW. Under 42 U.S.C. § 3501, he has overall responsibility for the activities of HEW and his subordinates in the Department, and under U.S.C. § 2, he is responsible for the supervision of the United States Office of Education. (hereafter USOE). Pursuant to this responsibility the Secretary has from time to time promulgated, and has responsibility for enforcing, regulation governing the administration of Title I funds, see 45 C.F.R. 116.

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[10] The language of Section 1983 and Section 1343(3) is generally parallel. The only apparent distinction being that while 1983 creates the cause of action for deprivation of any federal statutory right, 1343(3) creates jurisdiction where the statutory right is one secured by an Act "providing for equal rights". The history of these provisions reveals that Section 1983 is indeed an act providing for equal rights and the linguistic discrepancy was in no way intended to deprive litigants of a federal forum for causes under Section 1983.

See Note, Federal Judicial Review of State Welfare Practices 67 Columbia Law Review, 84(1967).

Defendant Bell is Commissioner of USOE and, under 20 U.S.C. § 2, he has general authority over the activities of USOE. Under 20 U.S.C. § 241a et seq., he has responsibility for paying Title I funds to State educational agencies, and for enforcing the applicable laws, regulation, guidelines, etc.

Defendant Fairley is acting Director of the Division of Compensatory Education, USOE and, in conjunction with defendant Bell, has direct responsibility for allocating Title I funds to State educational agencies and enforcing the applicable laws, regulation, guidelines, etc.

The federal defendants have failed to take adequate steps to seek compliance with Title I by local Providence officials.[11]

Plaintiffs ask the court to grant an injunction providing that the United States Office of Education cut off Title I funds to Providence in the future if local officials fail to bring Providence's Title I Program into conformance with the law; or such other relief the court deems appropriate, i.e. Providing federal defendants conduct audits, follow-ups, check-offs and other monitoring procedures to ensure compliance.

The United States Commissioner of Education has a mandatory duty to cut off Title I funds if the state or local educational agencies fail to comply and a mandatory duty to monitor local programs. Although there is no express requirement in the statute that the federal government monitor local programs, the duty is clearly implied. 28 U.S.C. 241; provides that:

> "Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been failure to comply substantially with any assurance set forth in the application of that State approved under section

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[11] Mrs. Overberg's affidavit clearly demonstrates that the federal defendants have failed to take any action to correct abuses in Providenc'es Title I Program.

> 241e(c), 241f(b), or 241H-1(b) of this title, The Commissioner shall notify the agency that further payments will not be made to the State under this subchapter (or, in his discretion, that the State educational agency shall not make further payments under this subchapter to specified local educational agencies affected by the failure). . ." (emphasis added).

If the Commissioner has a mandatory duty to cut off Title I funds "whenever [he] finds. . .a failure to comply, "is it not clear that the Commissioner must take reasonable steps to enable him to determine whether there *is* compliance? If, for example, the Commissioner simply did nothing to determine whether there was compliance (an accurate description of the situation in Providence prior to this litigation),he would never be required by the statute to cut off the funds since, under its literal terms, he would never "find" non-compliance. Obviously, however, such a literal construction would "emasculate the meaning of the [cut off provision] to the extent that it is rendered an absurdity, a nonentity, a futile exercise of the legislative will." Cassibry, J., dissenting in *Lampton v. Bonin*, 304 F. Supp. 1384, 1389 (E.D. La. 1969). The monitoring procedures are so basic to the performance of the Secretary's and the Commissioner's statutory duty that they cannont be fairly heard to say that the Court would be interfering with their discretion. See, in this connection, 45 C.F.R. §§ 116.31(f), (g), (h), and 116.48(a), (b). There is no discretion to avoid enforcement of the law and to allow the abuses complained of to continue.

Section 1361 grants jurisdiction to this Court to compel defendants to exercise their discretion, see, e.g. *Guffanti v. Hershey*, 296 F. Supp. 553 (D.C.N.Y. 1969); *Hill v. United States Board of Parole*, 257 F. Supp. 129 (D.D. Pa. 1966) and even to compel ministerial acts when required, see, e.g. *Ragoni v. United States*, 424 F. 2d 261 (3rd Cir., 1970); *Smith v. McNamara*, 395 F. 2d 896 (10th 1968); *Ashe v. McNamara*, 355 F. 2d 277 (1st Cir. 1965);

Walker v. Blackwell, 360 F. 2d 66 (5th Circ., 1966); Murray v. Vaughn, 300 F. Supp. 688 (D.C.R.I., 1969). See also Byse and Fiocca, Section 1361 of the Mandamus and Venue Act of 1962 and "Non Statutory" Judicial Review of Federal Administrative Action, 81 Harv. L. Rev. 308, 351-353 (1967). Thus, in Hill v. United States Board of Parole, supra the Court said at 130:

> The purpose of 28 U.S.C. §1361 is to compel a Government official or agency to perform a duty or to make a decision. Here the decision has been made. The statute was aimed at compelling an official or agency to act where the official or agency has failed to make any decision in a matter involving the exercise of discretion, but only to order that a decision be made with no control over the substance of the decision. 1962 U.S. Code Cong. & Ad. News p. 2787; See Schillinger v. U.S. Dept. of Justice et al., 259 F. Supp. 29 (M.D. Pa. Decided April 15, 1966).

In *Marquez v. Hardin*, 2 CCH Poverty Law Reporter 11, 304 (D.C. Cal. 9/5/69), a case analagous to the present suit, Judge Peckham found jurisdiction under Section 1361 where plaintiffs sued to require the Secretary of Agriculture to perform his statutory duty to ensure that all needy school children participated in the National School Lunch Program. Judge Peckham, at page 4 of his opinion, states,

> "Looking at the statute, it is fair to say that if the Secretary of Agriculture learns that federal funds are being applied in a manner substantially different from the congressional mandate, it is his duty to in some way remedy the situation. The statute says that the free or reduced price lunches "shall" be served to needy children and that the local agencies shall keep records" as may be necessary to enable the Secretary to determine whether the provisions of this chapter are being complied with." 42 U.S.C. 1758, (1760)a. If the local agencies fulfill their obligation to determine who is needy, then the Secretary need do nothing. If it is brought to his attention that the States are misapplying the funds he should take steps to insure that either the funds are applied correctly or terminated."

In Colpitts v. Richardson, supra, Judge Gignoux, similarly discussed the statutory duties upon state and federal Title I officials to exercise their discretion to ensure Title I criteria are being met. Although it was not necessary to reach the question of whether § 1361 mandamus jurisdiction was conferred, the Court in Colpitts said:

> "Defendants say that the manner in which the obligation is to be exercised is discretionary. But at the least plaintiffs are entitled to show that the state and federal defendants have not even attempted to exercise any discretionary authority they have, and to that extent have not complied with a specific statutory obligation." Colpitts Bench decision, page 6, Appendix B.

Thus, it is clear that § 1361 mandamus jurisdiction is not limited directly to mandatory functions and jurisdiction will lie here where it has been alleged that discretion in no way has been exercised.

III. THE FEDERAL AND LOCAL DEFENDANTS MOTION FOR SUMMARY JUDGMENT MUST BE DENIED.

A. Because Defendants Have Denied Relevant Discovery to Plaintiffs, They Lack Standing To Move For Summary Judgment.

The federal and local defendants have moved for summary judgment relying solely upon the affidavit of defendant Bell in support thereof. Yet, despite a great disparity in access to proof they have refused to provide plaintiffs with relevant and timely requests for discovery. The federal defendants have refused to answer relevant interrogatories, pending determination of these motions. The local defendants have refused timely and relevant requests for production of documents. Plaintiffs are entitled to many of these documents as parents and interested citizens. See, e.g. 20 U.S.C. 241e(a)(8). 45 C.F.R. 116. 18f; 45 C.F.R. 116.34d, Program Guide 54. Defendants' denial of information to plaintiffs has been continual and one of the bases for this complaint. For this reason the federal and local defendants are in no position to move for summary judgment. As the Court said in Bane v. Spencer, 393 F. 2d 108(1st Cir. 1968) at 109:

> ". . .it should be fundamental that a defendant who has failed to answer relevant and timely interrogatories is at least normally in no position to obtain summary judgment. See Toebelman v. Missouri & Kansas Pipe Line Co., 3rd Circ. 1942, 130 F. 2d 1016, 1022."

The above principles are especially applicable here because the discovery requested was relevant to the pending motions. See, Bane, supra. In addition refusal of discovery plus the great disparity of access to proof must be considered. As the Court said in Curto's, Inc. v. Krich - New Jersey, Inc. 193 F. Supp. 235 (D.C.N.J. 1961) at 238:

> "Another factor properly to be considered by a Court in deciding a motion for summary judgment is whether or not the party opposing the motion has had access to the proof. Moore's Federal Practice Vol. VI, para. 56.15. In this action, where the proof (if there be any) will be peculiarly within the knowledge or control of the defendants, plaintiff should be granted the opportunity of proceeding with its discovery in accordance with the appropriate rules."

B. Defendants Have Not Met Their Burden To Show The Absence Of Genuine Issue of Material Fact.

As the moving parties, defendants have the burden of showing the absence of a genuine issue as to any material fact, and for these purposes the affidavit submitted must be viewed in the light most favorable to plaintiffs. See, e.g. Adickes v. S. H. Kress and Company, 398 U. S. 144, 151 (1970); United States v. Diebold, 369 U.S. 654 (1962). Defendants have failed to meet this burden even to the extent of attacking the substance of the complaint's allegations. The complaint alleges numerous and continuing violations of Title I criteria by local defendants and a continuing failure of the state and local defendants to properly investigate, audit, evaluate and monitor these discrepancies. The only salient facts to be gleaned from defendant Bell's affidavit if any are (1) that he has concluded that the Title I program in Rhode Island is in substantial accord with the assurances given by the state defendants to conduct the program properly, (para.3); (2) program review and audit of the Providence Title I program including consideration of plaintiffs' complaint is in progress, (para 4)[12]; (3) it is not possible for the federal defendants to determine the efficacy of plaintiffs' complaint, (para. 5). The third point constitutes an admission that the substantial allegations of Title I violations in plaintiffs' complaint have not been denied by the only submitted affidavit. This failure plus substantial evidence in Mrs. Overberg's affidavit, that numerous past complaints have been ignored indicates a clear genuine issue of material fact.[13] Certainly, under these circumstances, the instant suit as a complex public issue case should not be determined by summary judgment. See, e.g. Poller v. Columbia Broadcasting System, 368 U.S. 464 (1967); Kennedy v. Silas Mason Co., 334 U.S. 249 (1948); Arena v. United States, 322 U.S. 419 (1944).

CONCLUSION

Defendants' Motions for dismissal and/or summary judgment should be denied.

Respectfully submitted,

Cary J. Coen

Harold Krause

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OF COUNSEL:

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Cambridge, Massachusetts

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[12] As has been previously discussed, the fact that the federal defendants are considering the problems raised by the complaint is irrelevant to its reviewability. See e.g. Rosado v. Wyman, supra.

[13] In view of the failure of defendants to deny the allegations of the complaint, plaintiffs were not obligated to file a counter-affidavit. See, e.g. Adickes v. S.H. Kress and Company, supra at 160; Bane v. Spencer, supra, Brunswick Corporation v. Vineberg, 370 F. 2d 605, 612 (5th Cir. 1967) but are well aware of the perils of such a procedure. See 6 Moore, Federal Practice, para. 56.22[2] at 22824-25 (2d ed. 1966).

CERTIFICATE

I, Harold E. Krause, Jr., hereby certify that on the 3rd day of February, 1971, I mailed a true copy of the foregoing Memorandum in Opposition to Defendants' Motions for Dismissal and Summary Judgment to Vincent Piccirilli, Attorney for Defendants, at 514 Industrial Bank Building, Providence, Rhode Island, Robert J. McOsker, Attorney for Defendants, at City Hall, Providence, Rhode Island, Lincoln Almond, Attorney for Defendants, at Federal Court Building, Providence, Rhode Island, and W. Slater Allen, Jr., Attorney for Defendants, 205 Benefit Street, Providence Rhode Island.

Harold E. Krause, Jr.

Babbidge et. al. v. Richardson et. al., Civil Action No. 4410 (D.C. R.I. February 16, 1971)

On February 16, 1971 Chief Judge Day denied the motions to dismiss. The court held that there was jursdicition under 28 U.S.C. Sec. 1331 and that the plaintiffs had standing citing Flast, Peoples, Gomez and Lee v. Nyquist as controlling.

TITLE I

PARENTS OF EDUCATIONALLY DEPRIVED MAY SUE ON TITLE I, COURT RULES

Colpitts et al v. Richardson et al, Civil Action No. 1838 (D.C. Me. October 20, 1970).

In an important decision, a federal District court in Maine has held that parents of poor and educationally disadvantaged children have standing to sue to enforce Title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. Sec. 241a et seq], and that federal courts have jurisdiction over such an action.

This class action was brought by a parent of educationally deprived children in Calais, Maine on behalf of her children and all other disadvantaged children in the Calais system. Plaintiffs contend that although Title I was enacted by Congress specifically to help local school districts meet the special educational needs of poor children, the Calais School Unit has used a substantial portion of Title I funds for general school purposes which only incidentally benefit the "target children" who are the sole beneficiaries of the Act. The defendants, the local, state and federal educational officials responsible for the administration of Title I in Calais, have denied plaintiffs' allegations and also moved to dismiss the action on the grounds that the plaintiffs lack standing and the court lacks jurisdiction.

On October 20, 1970, at the conclusion of a hearing, Judge Edward T. Gignoux denied the motions to dismiss. Citing, *inter alia, Flast v. Cohen* [392 U.S. 83 (1968)], *Peoples v. U.S.* [427 F. 2d.561 (D.C. Cir. 1970)], and *Gomez v. Florida* [417 F. 2d. 569 (5th Cir. 1969)], the court held that parents of Title I "target" children have standing to seek judicial enforcement of Title I since such children are the intended beneficiaries of the Act. [20 U.S.C. Sec. 241a.] The court also agreed with plaintiffs' contention that the "right to an education" secured to each plaintiff by Title I is itself such a precious and important right that the court could not conclude "to a legal certainty" that less than $10,000 was "in controversy" as to each child. [*St. Paul Mercury Indemnity Co. v. Red Cab Co.,* 303 U.S. 283, 288 (1938).] Since plaintiffs' claims arose under a federal statute, the court concluded that it had jurisdiction as against all defendants under the "federal question" jurisdiction statute [28 U.S.C. Sec. 1331(a).]

The Secretary of Health, Education and Welfare (HEW), the U.S. Commissioner of Education, and the Maine Commissioner of Education also pressed upon the court the contention that even if there was standing and jurisdiction to enforce Title I against the local Calais defendants, the plaintiffs have no cause of action to enforce Title I against them. But the court held that insofar as the complaint alleged that state and federal officials have failed to perform statutory duties to enforce Title I in Calais, and that such failure has adversely affected the rights of the plaintiffs, the complaint stated a cause of action against state and federal as well as against local defendants. The court expressly reserved opinion, however, as to what relief might be appropriate should plaintiffs later succeed in proving the allegations of their complaint.

Plaintiffs are represented by George S. Johnson of Pine Tree Legal Assistance and Mark G. Yudof and Jeffrey W. Kobrick of the Center for Law and Education. The Secretary of HEW and the U.S. Commissioner of Education are represented by Peter Mills, United States Attorney, and John B. Wlodkowski, Assistant United States Attorney. The Maine Commissioner of Education is represented by Charles R. Larouche, Assistant Attorney General. Calais school officials are represented by Francis A. Brown, of Calais.

Reprinted from Inequality In Education, Number Six, November 13, 1970, page 27.

V. COMPARABILITY REQUIREMENTS

V.

COMPARABILITY REQUIREMENTS

On October 14, 1971, H.E.W. published its long awaited comparability regulation--45 C.F.R. § 116.26. The regulation along with its introductory comment are set out. The regulation can be severely criticized for omitting longevity pay factors from the comparability requirement. Thus the assignment of more experienced teachers to non-Title I schools may be permitted at least as a matter of Title I comparability. On the other hand many Title I advocates will find the requirement to be a powerful tool. Note also that initial comparability reports should have been submitted by July 1, 1971. These reports are, of course, a matter of public record.

Regulation

§ 116.26 Comparability of services.

(a) A State educational agency shall not approve an application of a local educational agency (other than a State agency directly responsible for providing free public education for handicapped children or for children in institutions for neglected or delinquent children) for the fiscal year 1972 and subsequent fiscal years unless that agency has filed, in accordance with instructions issued by the State educational agency, information as set forth in paragraphs (b) and (c) of this section upon which the State educational agency will determine whether the services, taken as a whole, to be provided with State and local funds in each of the school attendance areas to be served by a project under title I of the Act are at least comparable to the services being provided in the school attendance areas of the applicant's school district which are not to be served by a project under said title I. For the purpose of this section, State and local funds include those funds used in determinations of fiscal effort in accordance with § 116.45.

(b) The State educational agency shall require each local educational agency, except as provided under paragraph (d) of this section, to submit data, based on services provided from State and local expenditures for subparagraphs (2) through (7) of this paragraph, for each public school to be served by a project under title I of the Act and, on a combined basis, for all other public schools in the district serving children in corresponding grade level, which schools are not served by projects under that title. Such data shall show (1) the average daily membership, (2) the average number of assigned certified classroom teachers, (3) the average number of assigned certified instructional staff other than teachers, (4) the average number of assigned noncertified instructional staff, (5) the amount expended for instructional salaries, (6) the amount of such salaries expended for longevity pay, and (7) the amounts expended for other instructional costs, such as the costs of textbooks, library resources, and other instructional materials, as defined in § 117.1 (i) of this chapter; and such other information as the State educational agency may require and utilize for the purpose of determining comparability of services under this section. The data so provided shall be data for the second fiscal year preceding the fiscal year in which the project applied for under said title I is to be carried out unless a local educational agency finds that it has more recent adequate data from the immediately preceding fiscal year which would be more suitable for the purpose of determining comparability under this section.

(c) The data submitted by the local educational agency based on services provided with State and local expenditures, shall, in addition to the information required under paragraph (b) of this section, show for each public school serving children who are to participate in projects under title I of the Act and for the average of all public schools in the school district serving corresponding grade levels but not serving children under title I of the Act, on the basis of pupils in average daily membership;

(1) The average number of pupils per assigned certified classroom teacher;

(2) The average number of pupils per assigned certified instructional staff member (other than teachers);

(3) The average number of pupils per assigned noncertified instructional staff member;

(4) The amounts expended per pupil for instructional salaries (other than longevity pay); and,

(5) The amounts expended per pupil for other instructional costs, such as the costs of textbooks, library resources, and other instructional materials.

The services provided at a school where children will be served under said title I are deemed to be comparable for the purposes of this section if the ratios for that school determined in accordance with subparagraphs (1), (2), and (3) of this paragraph do not exceed 105 percent of the corresponding ratios for the said other schools in the district, and if the ratios for that school determined in accordance with subparagraphs (4) and (5) of this paragraph are at least 95 percent of the corresponding ratios for said other schools. State educational agencies may, subject to the approval of the Commissioner, propose and establish criteria, in addition to those specified in this section, which must be met by local educational agencies.

(d) The State educational agency shall not approve project applications under title I of the Act for fiscal year 1972 unless the applicant local educational agency has submitted the data required by paragraphs (b) and (c) of this section. Such data must be submitted to the State educational agency no later than July 1, 1971, and July 1 of each year thereafter. In the case of local educational agencies the data for which indicate a failure to meet the standards for comparability described in this section, such applications must indicate how such comparability will be achieved by the beginning of fiscal year 1973. Applications for fiscal year 1973 and succeeding fiscal years shall not be approved unless the State educational agency (1) finds, on the basis of the data submitted, that the local educational agency has acieved comparability (as described in this section) and has filed a satisfactory assurance that such comparability will be maintained, or, (2) in the case of a local educational agency the data for which indicate a failure to meet such standards of comparability, receives from that local educational agency information with respect to projected budgets, staff assignments, and other pertinent matters showing that comparability will be maintained during the period for which such application is submitted. Notwithstanding the foregoing provisions no action shall be required of any local educational agency concerning the achievement of comparability with respect to subparagraphs (2) and (3) of paragraph (c) of this section if less than the equivalent of a full time staff member would be required to achieve such comparability.

(e) An agency which has an allocation of less than $50,000 for the fiscal year under parts A,B, and C of title I of the Act, and which is operating schools where children are not to be served under that title shall file a satisfactory assurance that it will use its State and local funds to provide services in its schools serving children who are to participate in projects under that title, which services are comparable to the services so provided in these schools serving children in corresponding grade levels which are not to be served by a project under that title. Such an agency shall also file the data required by paragraph (b) (1), (2), (3), and (4) of this section and the data required by paragraph (c) (1), (2) and (3) of this section.

(f) The requirements of this section are not applicable to a local educational agency which is operating only one school serving children at the grade levels at which services under said title I are to be provided or which has designated the whole of the school district as a project area in accordance with § 116.17(d).

(20 U.S.C.241e(a)(3))
/FR Doc. 71-14841 Filed 10-13-71;8:45 am/

Comment
(by Office of Education)

4. Comparability. The comments received on § 116.26 reflected a variety of concerns. Objections were raised to the failure to require the inclusion of expenditures for salary payments based on length of service (longevity) in computing the comparability of expenditures per pupil for instructional personnel in title I and nontitle I schools. In that respect the proposed provision was said to be discriminatory and an unconstitutional denial of equal educational opportunity. On the other hand, some school officials expresssed concern that even with the exclusion of longevity pay they might not be able to redeploy their staffs sufficiently to overcome differences in costs per pupil due to differences in the training of the personnel. Many of these officials and other commenters stated that in their opinion the pupil-staff ratios are adequate indicators of the comparability of services and requested that the instructional expenditures per pupil set forth in the proposed rule be eliminated. Still other commenters asked that the pupil-staff ratios be tempered or eliminated altogether and that comparability be determined primarily or solely on the basis of instructional costs per pupil as set forth in the proposed rule.

The exclusion of salary increments based on length of service as provided in the rule is derived from the legislative history of the comparability provision which, while definite on the Senate side (116 Congressional Record S4361, (daily edition March 27, 1970)) is ambiguous on the House side (116 Congressional Record H2691-93 (daily edition April 7, 1970)). In any event the treatment of this very difficult problem in the proposed rule is not to be taken as reflective of an educational judgment that longevity pay is a factor unrelated to the quality of a teacher's services. While the rule, as proposed, does not require State educational agencies to include longevity pay in determining comparability of per-pupil instructional expenditures, it should be noted that State agencies are permitted to include such pay in addtional criteria which they may establish as provided in the last sentence of § 116.26(c) of the rule. Furthermore, the fact that a school district meets the comparability requirements established by this rule would not excuse the district from its responsibility to observe other statutory and constitutional provisions prohibiting discrimination based on impermissible classifications.

After consideration of all of the above comments, it was determined that no changes need be made in the rule with respect to the indicators of the comparability of a title I school with the average on nontitle I schools. A change was made, however, in paragraph (d) so that action is not required to reduce the ratios of pupils to professional staff other than teachers or of pupils to nonprofessional instructional staff when the addition of less than the equivalent of a full-time staff member would be required to achieve comparability.

Example of a comparability report.

CRITERIA FOR DEMONSTRATING COMPARABILITY

School District Pendleton Grade Span of Schools Listed 1-8

Title I Elementary Schools 1969-70

Title I Project Schools (List Individually)	1 Number of Pupils in ADM	2 Average Number FTE Cert. Classroom Teachers	3 Average Number FTE Other Cert. Instruc. Staff	4 Average Number FTE Non-Cert. Instruc. Staff	5* Ratio of Pupils to FTE Cert. Classroom Teachers (Col. 1 ÷ Col. 2)	6* Ratio of Pupils to FTE Other Cert. Instruc. Staff (Col. 1 ÷ Col. 3)	7* Ratio of Pupils to FTE Non-Cert. Instruc. Staff (Col. 1 ÷ Col. 4)	8 Amount Expended for Instructional Salaries (Including Longevity)	9 Amount Expended Solely for Longevity	10 Amount Expended for Instruc. Salaries Less Longevity (Col. 8 - Col. 9)	11* Per Pupil Expense for Instructional Salaries Less Longevity (Col. 10 ÷ Col. 1)	12 Amount Expended for Other Instructional Costs	13* Per Pupil Expense for Other Instruc. Costs (Col. 12 ÷ Col. 1)
Circleville Elementary	217.8	8.00	1.00	.00	27.2	217.8	.0	55,630.	10,320.	45,310.	208.03	655.17	3.008
Franklin Elementary	438.2	16.50	1.00	.00	26.5	438.2	.0	121,007.5	17,640.	103,367.5	235.89	1494.69	3.411
Average for Non-Title I Project Schools	151.0	6.66	1.00	.00	22.6	151.0	.0	56,520.83	9,720.	46,800.83	314.63	441.55	2.939

* Criteria upon which the SEA shall base its determination of compliance with the comparability requirement.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

SEP 1 8 1970

Our Reference: ESEA Title I
DCE/OD

MEMORANDUM TO CHIEF STATE SCHOOL OFFICERS

Subject: Advisory Statement on Development of Policy on Comparability

Prior to the passage of P.L. 91-230 (the 1970 amendments to the Elementary and Secondary Education Act), Program Guide #57 was issued to clarify the requirements for achieving comparability. It is the purpose of this memorandum, which will supersede Program Guide #57 following promulgation of forthcoming regulations, to inform you of the revisions in the comparability policy, pursuant to Section 109 of P.L. 91-230.

Briefly, P.L. 91-230 and this policy statement differ from provisions of Program Guide #57 in the following ways:

1. Section 109 of P.L. 91-230 requires a report on comparability on or before July 1, 1971. This policy statement recommends that local educational agencies submit their report to their State educational agency by May 1, 1971, in order that such data may be considered in reviewing project applications. Starting with applications for programs to be carried out during the 1971-72 school year, local educational agencies whose reports indicate a lack of comparability shall project staff assignments and budgets as they relate to the comparability criteria described below.

2. Section 109 of P.L. 91-230 provides that funds may not be withheld from a local educational agency for non-compliance with the comparability clause until after July 1, 1972.

3. Section 109 of P.L. 91-230 provides that services, taken as a whole, for each project area in a district must be at least comparable to services being provided in areas of that district which are not receiving Title I funds. Consequently, this policy statement does not provide the option given States in Program Guide #57 on reporting either all instructional expenses (Criterion B) or expenses for instructional salaries only (Criterion C).

4. This policy statement includes a special provision not contained in Program Guide #57. Pay for longevity (years of teaching) is not considered a factor in determining comparability.

5. This policy statement contains a special provision whereby a State educational agency may choose not to require the reporting of instructional expenditures from districts receiving small Title I allotments. Districts with only one school serving the same grade span (e.g., primary, intermediate, secondary), are not required to submit any data.

6. This policy statement recommends the following timetable:

January 1, 1971	Deadline for State educational agency to submit for approval by the Commissioner any comparability criteria it deems appropriate beyond those minimum criteria described in this policy statement. For subsequent years, additions or amendments to State-developed criteria may be submitted for approval at any time but may not be implemented unless approved.
May 1, 1971	Recommended deadline for local educational agency to submit to the State educational agency data on comparability for the 1969-70 school year. If such data does not demonstrate comparability for the period reported, the local educational agency shall submit, in addition, a plan indicating how comparability will be achieved no later than June 30, 1972.

December 31, 1971	Recommended deadline for local educational agency to submit to the State educational agency a report containing comparability data for the 1970-71 school year. Such data will be considered during the Spring 1972 project application review period.
Date of submission of Title I application, Spring 1972 and each Spring thereafter	Local educational agency submits to the State educational agency its application for projects to be conducted during the 1972-73 school year. Where data submitted by December 31, 1971, indicate comparability, the application shall contain an assurance that such comparability will be maintained. Where such data indicate lack of comparability, the application will include projected staff assignments and budgets as they relate to comparability criteria and an assurance that such projected staff assignments and budgets will be maintained. This procedure will be repeated in subsequent annual applications.
July 1, 1972	The State educational agency may withhold funds from a local educational agency which is not in compliance with comparability regulations.
December 31, 1972 and each December 31 thereafter	Recommended annual deadline for report of actual data for school year which ends in that calendar year. (E.g., by December 31, 1972, data for the 1971-72 school year should be submitted.)

What Comparability Means

Title I funds must not be used to supplant State and local funds which are already being expended for public educational programs and services in the project areas or which would be expended in those areas if the services were comparable to those for non-project areas. Within a district, instructional services provided with State and local funds1/ for children

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1/ For the purpose of this policy statement regarding comparability, funds provided under P.L. 81-874 will be considered the same as State and local funds in determining local expenditure.

in project areas must be comparable to those services provided for children in non-project areas. Services that are already available or that will be made available to children in the non-project areas must be provided on at least an equal basis in the project areas with State and local funds.

Responsibilities of State Educational Agencies for Achieving Comparability

For projects which will be carried out after June 30, 1972, the State educational agency shall determine that, during the project period, instructional programs and services supported by State and local funds at each school of the local educational agency serving a Title I project area will be superior or equal to those programs and services at the schools of that agency which are not receiving Title I funds.

1. State responsibilities with respect to local educational agencies.

    a. Reports

    In order to determine a district's compliance with this requirement, the State educational agency shall require that each local educational agency submit a report containing data on comparability by the recommended deadline of May 1, 1971. If such data does not affirmatively demonstrate to the State educational agency that a comparability of services provided with State and local funds currently exists in the school district between project and non-project areas, the local educational agency shall also submit by May 1, 1971, a plan to achieve such comparability no later than June 30, 1972.

    This first report or plan should provide information for each school in the district, based on data from the 1969-70 school year. State educational agencies are responsible for determining whether the comparability data or plan to achieve comparability meets Federal and State requirements. Subsequent annual reports will be submitted by a date which the State educational agency will determine but which is recommended to be no later than the end of the calendar year in which the school year ends. This will ensure that data from the past school year are available during the spring period when project applications for the upcoming school year are reviewed.

In addition, local educational agencies will submit with each Title I application for the period beyond June 30, 1972, the following as appropriate:

> Where actual data for the second fiscal year preceding the period to be covered by the application indicated comparability, an assurance will be made that such comparability will be maintained. For instance, for a fiscal year 1973 application, fiscal year 1971 data will be used. Where such data indicates a lack of comparability, the application shall include projected staff assignments and budgets with an assurance that such projections will be maintained.

The State educational agency need not require reports from local educational agencies which have only one school serving the grade span at which it provides Title I services. Agencies with schools having Title I allocations of less than $50,000, but which have at least one non-Title I school serving the same grade span shall report only on staff assignments (i.e., average number of assigned certified classroom teachers, assigned other certified instructional staff, assigned non-certified instructional staff, and average daily membership) and must submit an assurance of comparability.

b. Compliance

For any period ending after June 30, 1972, the State educational agency shall withhold or defer application approval or payment of funds if a local educational agency fails to file necessary data assurances and projections as previously defined. Such action will be taken only after appropriate notice and an opportunity for a hearing as required by the Title I regulations.

c. Audit

State educational agencies shall perform such reviews and audits as may be necessary to ensure that the local educational agency correctly represents the instructional services provided at its schools.

d. Expenses

The State educational agency may, where reasonable and necessary, allow a local educational agency to use Title I funds to cover reasonable costs of establishing record-keeping procedures to meet reporting requirements.

2. State responsibilities with respect to the Federal Government.

   a. Reports

      Each State educational agency shall report to the Commissioner such information as he may request regarding the compliance of local educational agencies with comparability requirements.

   b. Development of criteria

      A State educational agency may establish comparability criteria beyond those minimum criteria described below. Initial State-developed criteria must be submitted to the Commissioner for approval by January 1, 1971.

Criteria for Demonstrating Comparability

The comparability requirements issued by a State educational agency to local educational agencies under its jurisdiction shall contain, at a minimum, the following data for each school included in the project application and the same average data for non-project area schools by corresponding grade span:

1. Average number of assigned certified classroom teachers.
2. Average number of assigned other certified instructional staff.
3. Average number of assigned non-certified instructional staff.
4. Amounts expended for instructional salaries (including amounts paid for step increases or other increases for length of service).
5. The amount included in expenses for instructional salaries which was paid solely because of length of service without regard to the quality of work.
6. Expenses incurred for other instructional costs (textbooks, library books, audio-visual materials, and other teaching supplies).
7. Average daily membership.
8. Such other data as the State educational agency may require.

The State educational agency shall base its determination of compliance with the comparability requirement on:

1. The ratio of pupils to assigned certified classroom teachers;
2. The ratio of pupils to assigned other certified instructional staff;
3. The ratio of pupils to assigned non-certified instructional staff;
4. The expense per pupil for instructional salaries, less amounts paid solely on the basis of longevity; and
5. The expense per pupil for other instructional costs.

The local educational agency's Title I schools must have equal or lower ratios and equal or higher expenditures than the corresponding averages for its non-Title I schools serving the same grade span (e.g., all elementary schools, all junior high schools, all high schools). Ratios and expenditures for each Title I school shall be considered "equal" to the averages for non-project area schools if they are within five percent of those averages in each category.

Criteria for Meeting Supplementing and Non-Supplanting Requirement

The State educational agency shall find a local educational agency in compliance with the requirement against supplanting if the local agency either:

1. Does not use Title I funds to support a service which has been supported previously by funds from State or local sources, or
2. Establishes, with respect to funds from State and local sources, that both the per pupil expenditure for instructional services and the proportion of expenditures for instructional services (calculated on a per pupil basis) spent at the schools serving its Title I project areas will be maintained at levels at least equal to the levels which prevailed before State and local support for the service to be supported by Title I funds was discontinued.

Each State educational agency shall require a local educational agency to submit with its Title I application:

1. A factual description of the services provided with funds from State and local sources at both its Title I and non-Title I schools that are similar to those which it proposes to support with Title I funds; and

2. Either a statement that none of the services to be supported with Title I funds have in the past been supported by funds from State or local sources, or such information as the State educational agency may require in order to determine that the local educational agency is maintaining its prior level of effort at the Title I schools.

Each State educational agency will take any necessary action, including the routine monitoring of activities of local educational agencies and investigations in response to complaints, to determine if its local educational agencies are complying with the supplementing and non-supplanting requirement.

Points of Clarification and Definitions for Criteria on Comparability, Supplementing, and Supplanting

1. Funds from State and local sources include all funds which the local educational agency receives from public sources within its State.

2. Instructional salaries include the salaries paid instructional staff directly and the indirect payroll expenses incurred by a local educational agency because of the employment of an instructional staff member. This definition does not include amounts paid for longevity.

3. Instructional services include the services of instructional staff members (principals, consultants, supervisors, teachers, school librarians, audiovisual, guidance, psychological, and television instructional personnel, secretarial and clerical assistants, and paraprofessional staff, such as teacher aides and student teachers) and the provision of textbooks, school libraries, audiovisual materials, and teaching supplies.

4. Non-Title I schools are the schools of a local educational agency which serve attendance areas not receiving Title I funds.

5. Title I schools are the schools which serve attendance areas designated by the local educational agency as project areas to receive Title I services. Private schools whose children participate in Title I activities are not included.

6. The State educational agency may wish to consider in its criteria the differences between small and large schools within a district. There may be a variance in per pupil instructional expenditures according to size of school.

7. To be eligible for Title I funding of summer sessions, the local educational agency must demonstrate that its project area schools were comparable to those in non-project areas during the second previous school year.

T. H. Bell
Acting U.S. Commissioner of Education

Copies to: State Title I Coordinators, ESEA

VI. PROGRAM GUIDES

James A. Bensfield

VI.

THE LEGAL STATUS OF TITLE I PROGRAM GUIDES

Title I of the Elementary and Secondary Education Act of 1965 requires that state educational agencies approve project applications from local districts "consistent with such basic criteria as the Commissioner may establish." 20 USC 105 (a) These criteria have been promulgated by the U.S. Office of Education in one of two forms: "Regulations" and "Program Guides."

The Regulations (which appear in the Code of Federal Regulations, Title 45, Part 116) were drawn up shortly after the ESEA was passed and have been periodically amended. Subpart C ("Project Applications") contains most of the basic standards by which state educational agencies must evaluate the size, scope, and quality of local programs. There is little doubt that the Regulations are legally enforceable, since the Commissioner in issuing them was acting in accordance with an express grant of legislative power. It is a maxim of administrative law that a court will no more substitute judgment on the content of a valid legislative rule than it will substitute judgment on the content of a valid statute. 1 Davis, Administrative Law, Section 5.11 (See also King v. Smith and Thorpe v. Housing Authority, discussed infra)

The Program Guides are designed to clarify, expand upon, or emphasize certain of the standards set out in the Regulations, especially those contained in Subpart C. They are made available in memorandum form to all state educational agencies passing on Title I project applications. Some of the Guides are short, and deal only with one specific aspect of Title I administration. Program Guide Number 46, for example, deals with community participation, adding substantially to a concept which is only mentioned briefly in the Regulations; numbers 45-A and 57 discuss only the "Comparability" standard set out in the Regulations. Number 44, on the other hand, is a more extensive document which covers nearly all of the criteria which local and state education agencies must meet before their applications can be approved.

Although the Program Guides "are based on the law and are derived from the Regulations" (Guide #44), there may still arise some question as to their legal enforceability. Since they are not published in the Federal Register, since they are subject to numerous revisions, and since they look more like memoranda than laws, it is conceivable that the issue may be raised. The Guides should, however be treated as having the same legal force as the Regulations. There are several reasons why this is so.

First, the language of the Act itself does not put any limitations on the form of the rules which the Commissioner is authorized to lay down. It speaks only of "criteria," and the Program Guides certainly fall under the rubric of that term. The title of Number 44, for example, is "revised *Criteria* for the Approval of Title I, ESEA, Applications from Local Educational Agencies," and, in the introduction to that Guide, the Commissioner himself indicates that "the revised criteria reflect the requirements of both Sections 105 (a) and 803 (a) [of the Act]."

Given that the Criteria clearly fall within the terms of the Act, they are judicially enforceable. In an analogous case, *King v. Smith*, 392 U.S. 309 (1968), the Supreme Court held that an Alabama AFDC plan "must conform" with the Social Security Act "and with the rules and regulations promulgated by HEW." In *Thorpe v.Housing Authority of the City of Durham*, 393 U.S. 268 (1969), the court upheld the authority of the U.S. Department of Housing and Urban Development to promulgate regulations covering the eviction procedures employed by local housing authorities. The Court pointed out in that decision that such broad rule-making powers have been granted to numerous other Federal administrative bodies in substantially the same language, including the Secretary of HEW.

Second, there are clear indications in the Guides themselves that they are intended to be binding on the state educational agencies. As the Commissioner said in Number 44: "The following criteria are based on the law and the regulations and were formulated to meet the need for a set of general statements of the essential characteristics of an approvable Title I program." Furthermore, the office of the legal advisor to Title I has indicated that the Guides are, in effect, regulations, that they have been cleared through the General Counsel's Office (like the regualtions), and that a court of law should not pay any attention to technical distinctions between Regulations and Program Guides when it comes to enforcing the latter.

Third, the Administrative Procedure Act does not affect the legal status of the Guidelines. Although the Act [5 USC 553(b)] requires notice in the Federal Register of proposed rule-making, that section is made inapplicable to a matter involving federal grants [5 USC 553(a)(2)]. This would certainly include regulations covering the allocation of Title I funds. Furthermore, that section of the Act [5 USC 552(a)(1)] which requires publication in the Federal Register of the terms of administrative regulations also does not impair the legal enforceability of the Guidelines. The Act says only that if a regulation is published in the Register, all persons have constructive notice and are therefore bound by it. It does not say that failure to publish removes a regulation's legal effect. The Attorney General's memorandum on the Public Information Section of the Administrative Procedure Act (June 1967, pp. 11, 12) points out that the Act's legislative history indicates that unpublished acts are not necessarily without legal force and that actual notice would cure any defect of nonpublication. A person with actual notice is just as equally bound with a person who has constructive notice by virtue of publication in the Register. Since the Title I Guidelines are sent directly to all state educational officials, and through them to local authorities, there is no problem with this section of the APA.

It should be noted, finally, that most of the important standards for evaluating the legality of Title I Projects are contained in the Regulations. In a lawsuit challenging a misappropriation of Title I money it may not even be necessary to refer to the Program Guides. If, however, a criterion contained in the Guides is being violated, one should not hesitate to treat that criterion as having the same legal status as a Regulation.

VII. INTERROGATORIES

VII.

SAMPLE INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, you are required to answer separately under oath, within fifteen days of service hereof, the following Interrogatories:

1. Indicate the name of the person employed as the Superintendent of the Bernalillo school district for each school year from 1965-1970, and the amount of his salary.

    a. Indicate whether this person's salary was paid entirely from funds provided under Title I of the Elementary and Secondary Education Act.

    b. Indicate whether this person's salary was paid in part from funds provided under Title I of the Elementary and Secondary Education Act, and the amount of that partial payment.

    c. If said salary was paid in part from Title I funds, indicate the services which this person provided students eligible for Title I assistance.

2. Indicate the names of the persons employed as Clerical Assistants by the Bernalillo school district for each school year from 1965-1970, the schools to which each was assigned, and the salary that each was paid.

    a. For each clerical assistant, indicate whether her salary was paid entirely from funds provided under Title I of the Elementary and Secondary Education Act.

    b. For each clerical assistant whose salary was paid entirely from Title I funds, did she provide services exclusively to students eligible for Title I assistance?

    c. For each clerical assistant whose salary was paid entirely from Title I funds, describe the specific duties which her employment entailed.

    d. For each clerical assistant, indicate whether her salary was paid in part from funds provided under Title I of the Elementary and Secondary Education Act and the amount of that partial payment.

    e. For each clerical assistant whose salary was paid in part from

Title I funds, did she provide services to students eligible for Title I assistance?

f. For each clerical assistant whose salary was paid in part from Title I funds, describe the specific duties which her employment entailed, including a description of the services which she provided students eligible for Title I assistance.

3. For each school year from 1965-1970, did the Bernalillo school district conduct an audit of the Bernalillo public schools?

a. If so, does there exist a document embodying the results of that audit?

b. If such a document exists, state the name and address of the person who has custody and control of the original of said document, and attach a copy thereof to your answer.

c. If such an audit was not conducted, specify, in detail, the nature and amount of expenditures made under budget item "Audit-Fiscal Control" (Code No. 120.4)

4. Indicate the names of the persons employed as Consultants by the Bernalillo school district for each school year from 1965-1970, the schools to which each was assigned, and the salary that each was paid.

a. For each consultant, indicate whether his salary was paid entirely from funds provided under Title I of the Elementary and Secondary Education Act.

b. For each consultant whose salary was paid entirely from Title I funds, did he provide services exclusively to students eligible for Title I assistance?

c. For each consultant whose salary was paid entirely from Title I funds, describe the specific duties which his employment entailed.

d. For each consultant, indicate whether his salary was paid in part from funds provided under Title I of the Elementary and Secondary Education Act and the amount of that partial payment.

e. For each consultant whose salary was paid in part from Title I funds, did he provide services to students eligible for Title I assistance?

f. For each consultant whose salary was paid in part from Title I funds, describe the specific duties which his employment entailed, including a description of the services which he provided students eligible for Title I assistance.

5. Indicate the names of the persons employed as Teachers by the Bernalillo school district for each school year from 1965-1970, the school to which each was assigned, the grade level or leves which each taught, the number of years of teaching experience that each had had prior to the beginning of the school year, the most advanced academic degree that each had achieved, the number of months during the school year that each was paid, and the salary that each was paid.

a. For each teacher, indicate whether his salary was paid entirely from funds provided under Title I of the Elementary and Secondary Education Act.

b. For each teacher whose salary was paid entirely from Title I funds, indicate whether he provided services exclusively to students eligible for Title I assistance.

c. For each teacher whose salary was paid entirely from Title I funds:

1. Specify the subjects which he taught during the school year.

2. Specify the total number of teaching hours devoted to each subject during the school year.

3. Specify the total number of overtime hours for which he was paid from Title I funds and the services which he performed during the school year.

4. List the names of the students enrolled in each class which he taught in each subject.

5. Designate the subjects and classes which he taught which were part of the Title I program in the district.

6. Designate the names of the students enrolled in each class which he taught in each subject, who were eligible for Title I assistance.

7. Describe how the Title I program classes which he taught differed from regular school classes.

8. Specify any other services which he provided students eligible for Title I assistance.

9. Specify any other services which he provided students ineligible for Title I assistance.

d. For each teacher, indicate whether his salary was paid in part from funds provided under Title I of the Elementary and Secondary Education Act and the amount of that partial payment.

e. For each teacher whose salary was paid in part from Title I funds, indicate whether he provided services to students eligible for Title I assistance.

f. For each teacher whose salary was paid in part from Title I funds:

1. Specify the subjects which he taught during the school year.

2. Specify the total number of teaching hours devoted to each subject during the school year.

3. Specify the total number of overtime hours for which he was paid from Title I funds and the services which he performed during those hours.

4. List the names of the students enrolled in each class which he taught in each subject.

6. For each school year from 1965-1970, specify the amount of money which the Bernalillo Municipal School District expended on textbooks in each school in the district.

a. For each school in the district, specify the amount of Title I funds expended for the purchase of textbooks.

b. For each school in the district, list the title and the number of copies of each title of the textbooks purchased with Title I funds.

c. For each school in the district, list thenames of the students receiving or using textbooks purchased with Title I funds.

7. For each school year from 1965-1970, specify the amount of money which the Bernalillo Municipal School District expended to purchase audio-visual materials in each school in the district.

a. For each school in the district, specify the amount of Title I funds expended for the purchase of audio-visual materials.

b. For each school in the district, list each purchase of audio-visual materials made from Title I funds.

c. For each school in the district, list the names of the students receiving the benefit of the audio-visual materials purchased with Title I funds.

7. For each school year from 1965-1970, specify the amount of money which the Bernalillo Municipal School District expended to purchase general instructional supplies in each school in the district.

a. For each school in the district, specify the amount of Title I funds expended for the purchase of general instructional supplies.

8. For each school year from 1965-1970, specify the amount of money which the Bernalillo Municipal School District expended for guidance and testing in each school in the district.

a. For each school in the district, specify the amount of Title I funds expended for guidance and testing.

9. For each school year from 1965-1970, specify the amount of money which the Bernalillo Municipal School District expended for instructional support supplies and services in each school in the district.

a. For each school in the district, specify the amount of Title I funds expended for the purchase of instructional support supplies and services.

10. Indicate the names of the persons employed as Registered Nurses by the Bernalillo Municipal School District for each school year from 1965-1970, the schools to which each was assigned, and the salary that each was paid.

a. For each nurse, indicate whether her salary was paid entirely from funds provided under Title I of the Elementary and Secondary Education Act.

b. For each nurse whose salary was paid entirely from Title I funds, did she provide services exclusively to students eligible for Title I assistance?

c. For each nurse whose salary was paid entirely from Title I funds, describe the specific duties which her employment entailed.

d. For each nurse, indicate whether her salary was paid in part from funds provided under Title I of the Elementary and Secondary Education Act and the amount of that partial payment.

e. For each nurse whose salary was paid in part from Title I funds, did she provide services to students eligible for Title I assistance?

f. For each nurse whose salary was paid in part from Title I funds, describe the specific duites which her employment entailed, including a description of the services which she provided students eligible for Title I assistance.

11. For each school year from 1965-1970, specify the amount of money which the Bernalillo Municipal School District expended for health support supplies and services in each school district.

a. For each school in the district, specify the amount of Title I funds expended for the purchase of health support supplies and services.

12. Indicate the names of the persons employed as Custodians by the Bernalillo Municipal School District for each school year from 1965-1970, the schools to which each was assigned, and the salary that each was paid.

a. For each custodian, indicate whether his salary was paid entirely from funds provided under Title I of the Elementary and Secondary Education Act.

b. For each custodian whose salary was paid entirely from Title I funds, did he provide services exclusively to students eligible for Title I assistance?

c. For each custodian whose salary was paid entirely from Title I funds, describe the specific duites which his employment entailed.

d. For each custodian, indicate whether his salary was paid in part from funds provided under Title I of the Elementary and Secondary Education Act and the amount of that partial payment.

e. For each custodian whose salary was paid in part from Title I funds, did he provide services to students eligible for Title I assistance.

f. For each custodian whose salary was paid in part from Title I funds, describe the specific duites which his employment entailed, including a description of the services which he provided students eligible for Title I assistance.

13. What expansion of school facilities occurred at each school in the Bernalillo Municipal School District in each separate school year from 1965-1970?

a. For each school and each school year, specify the amount of Title I funds expended for the expansion of facilities.

14. For each separate school year from 1965-1970, in the Bernalillo Municipal School District, did the schools which were designated as targets

for Title I funds have concentrations of children from low income families which were as high or higher than the percentage of such children for the district as a whole?

15. As to each school in the Bernalillo Municipal School District, state the enrollments by grades for each of the school years from 1965-1970, and, as to each grade, state the number of Indian students and the number of non-Indian students.

16. State the average class size for each school in the Bernalillo Municipal School District for school years 1965-1970.

17. Indicate in detail why the special education classes at the Roosevelt school are supplied with jewelry kits, bolo ties and other arts and crafts materials whereas the special education class at the Santo Domingo school is not.

18. Indicate whether the special education teachers at the Roosevelt school and the Bernalillo Junior High School have paid for instructional supplies from their own salaries.

19. Specify the total number of special education classes in the Bernalillo Municipal School District, the school at which each is located, the total enrollment of each class, and the number of Indian students in each class.

20. For the Bernalillo Municipal School District, indicate the average expenditure per child in each special education class in each school.

21. Indicate the average amount of money which the Bernalillo Municipal School District receives for each Indian child in a special education class under applicable federal and state laws.

22. For each school year from 1965-1970, state the names of the students which the Bernalillo Municipal School District designated as children "from low income families" for the purposes of Title I of the Elementary and Secondary Education Act, the school that each attended, and the grade level of each.

a. Specify which of those students were from the Santa Ana, Sandia, San Felipe, Cochiti, and Santo Domingo Pueblos.

b. Specify the percentage of such students at each school in the Bernalillo Municipal School District.

c. Specify which of those students were members of families receiving Aid For Dependent Children payments.

d. Specify which of those students were members of families whose income was less than $2000 per year.

e. Specify which of those students were members of families whose income was less than $3000 per year.

f. Specify which of those students were members of families whose income was greater than $3000 per year and who were not receiving Aid for Dependent Children payments.

g. Was a school survey conducted to determine which students were children "from low income families"?

h. If such a survey was conducted, does there exist a document embodying the results of that survey? If such a document exists, furnish the name and address of the person who has custody and control of that document and attach a copy thereof to your answer.

23. State the average per pupil expenditure from non-federal funds in the Bernalillo Municipal School District for school years 1964-65, and 1965-66. If the average per pupil expenditure from non-federal funds was lower in 1965-66 than in 1964-65, explain this decline in expenditures. Repeat this explanation for any subsequent school year in which there was a decline in expenditures from the previous school year.

24. For each school year from 1965-1970, state the names of the elementary school teachers in the Bernalillo Municipal School District whose salaries were paid from Title I funds and the school to which each was assigned. Specify the services which each provided students eligible for Title I assistance and the manner in which those services differed from services offered students ineligible for Title I assistance.

25. For each school year from 1965-1970, state the names of the secondary school teachers in the Bernalillo Municipal School District whose salaries were paid from Title I funds and the school to which each was assigned. Specify the services which each provided students eligible for Title I assistance and the manner in which those services differed from services offered students ineligible for Title I assistance.

26. For each school year from 1965-1970, state the names of the persons assigned to perform attendance activities in the Bernalillo Municipal School District whose salaries were paid from Title I funds and the school or schools to which each was assigned. Specify the services which each provided students eligible for Title I assistance and the manner in which those services differed from services offered students ineligible for Title I assistance.

27. For each school year from 1965-1970, in the Bernalillo Municipal School District, describe in detail the cultural enrichment program financed by Title I of the Elementary and Secondary Education Act and

indicate the cost of that program, the names of the participating students, and the school that each such student attended.

a. How were students chosen for participation in the cultural enrichment program? Were all students who enrolled in language arts and arts and crafts classes eligible?

b. Specify the names of the reading specialists, consultants, and area coordinators who participated in the cultural enrichment program.

c. Specify the services which the reading specialist offered the children participating in the cultural enrichment program and the manner in which those services differed from services offered to children who were not participating in the cultural enrichment program.

d. Specify the services which consultants offered children participating in the cultural enrichment program and the manner in which those services differed from services offered to children who were not participating in the cultural enrichment program.

e. Specify the services which the area coordinators offered the children participating in the cultural enrichment program and the manner in which those services differed from services offered to children who were not participating in the cultural enrichment program.

f. List each excursion to a place or event of interest and each field trip to a cultural center near Bernalillo undertaken under the cultural enrichment program, the names of the students who participated in each such excursion or trip, the school which each student attended, and the date of each such excursion trip.

g. For each school year from 1965-1970 list each excursion to a place or event of interest and each field trip to a cultural center near Bernalillo which was not paid for out of Title I funds, and the date of each such excursion trip.

h. For each school year from 1965-1970, did the Bernalillo Municipal School District conduct evaluations of the cultural enrichment program?

i. If the Bernalillo Municipal School District did conduct such evaluations, does there exist a document embodying the results of those evaluations? If such a document exists, furnish the name and address of the person who has custody and control of said document and attach a copy thereof to your answer.

j. Furnish the names and addresses of all parents involved in the trips or excursions undertaken pursuant to the cultural enrichment program.

k. Indicate the manner and dates on which information concerning the cultural enrichment program was disseminated.

l. List the names of all Indian students who participated in the cultural enrichment program.

28. For each school year from 1965-1970, in the Bernalillo Municipal School District, describe in detail the English reading program financed by Title I of the Elementary and Secondary Education Act and indicate the cost of that program, the names of the students who participated, and the school that each such student attended.

a. Specify the names of the reading teachers assigned to the English reading program, the services which they rendered students participating in the English reading program, and the manner in which those services differed from services offered to children who were not participating in the English reading program.

b. Specify the names of the language art directors assigned to the English reading program, the services which they rendered students participating in the English reading program, and manner in which those services differed from services offered to children who were not participating in the English reading program.

c. Specify the names of the language arts consultants assigned to the English reading program, the services which they rendered students participating in the English reading program, and the manner in which those services differed from services offered to children who were not participating in the English reading program.

d. List the names of all Indian students who participated in the English reading program.

e. What is the total number of hours of English language training received by each student, in each grade level, who participated in the English reading program?

f. What was the total number of hours of English language training received by each student, in each grade level, who did not participate in the English reading program?

g. List the titles of the "pleasurable reading matter" referred to in the Title I project application for each year from 1965-1970, of the Bernalillo Municipal School District and describe how it relates to the English reading program.

h. Was the daily reading practice aspect of the English reading program offered in addition to the regular English language classes? If so, how many additional hours of such reading practice did each participating child receive in each grade level?

i. List the names of Indian parents who were visited at home by reading teachers in order to discuss the progress of their children in the English reading program and the date of each such conference. Is it true that such visits were seldom welcomed by Indian parents?

j. For each school year from 1965-1970 did the Bernalillo Municipal School District conduct evaluations of the English reading program?

k. If the Bernalillo Municipal School District did conduct such evaluations, does there exist a document embodying the results of those evaluations? If such a document exists, furnish the name and address of the person who has custody and control of said document and attach a copy thereof to your answer.

l. Under the English reading program, list the names of the staff members who attended reading workshops, the dates of those workshops, their subject matter, and their relation to the English reading program.

m. What services did the Southwest Cooperative Educational Laboratory and the Educational Service Center provide in the English reading program?

n. List the names of the parents who attended the Open House sponsored by the Bernalillo Municipal School District in order to familiarize them with the English reading program. On what date was the Open House held?

o. Does there exist a handbook entitled "The Language Arts Center Handbook" which elaborates on the English reading program and services? If such a handbook exists, furnish the name and address of the person who has custody and control of said handbook and attach a copy thereof to your answer.

p. Does there exist a document entitled "Curriculum Guide" which discusses the standard of intended coverage in English classrooms by grade and level? If such a document exists, furnish the name and address of the person who has custody and control of said document and attach a copy thereof to your answer.

q. List the persons to whom "The Language Arts Center Handbook" and the "Curriculum Guide" were distributed and the dates of distribution.

r. List the issues of the Bernalillo High School Newspaper in which information on the English reading program was disseminated.

s. Did the personnel at the Language Arts Center prepare a pamphlet discussing current program involvement for the English reading program?

t. If such a pamphlet exists, furnish the name and address of the person who has custody and control of said pamphlet and attach a copy thereof to your answer.

u. List the names of the persons employed by the Language Arts Center, their salary, and their duties.

v. What services did participants in the English reading program receive that non-participating students did not receive?

29. For each school year from 1965-1970, in the Bernalillo Municipal School District, describe in detail the English as a second language program financed by Title I of the Elementary and Secondary Education Act and indicate the cost of that program, the names of the students who participated, and the school that each such student attended.

a. How were students chosen for participation in the English as a second language program? What percentage of the total number of students in the Bernalillo Municipal School District participated in the English as a second language program?

b. List the names of all Indian children who participated in the English as a second language program.

c. Specify the names of the teachers assigned to the English as a second language program, the services which they rendered students participating in the English as a second language program, and the manner in which those services differed from services offered to children who were not participating in the English as a second language program.

d. Specify the names of the consultants assigned to the English as a second language program, the services which they rendered students participating in the English as a second language program, and the manner in which those services differed from services offered to children who were not participating in the English as a second language program.

e. What was the total number of hours of English language training received by each student, in each grade level, who participated in the English as a second language program?

f. What was the total number of hours of English language training received by each student, in each grade level, who did not participate in the English as a second language program?

g. List the names of the language arts consultants who conducted classroom demonstrations under the English as a second language program, the dates upon which the demonstrations took place, and the names of the children who benefited from this service. Describe these demonstrations.

h. List the units of materials prepared by language arts consultants pursuant to the English as a second language program, the name of the person or persons who prepared those materials, and the specific classes and grade levels in which they were utilized.

i. List the in-service workshops in which language art consultants assisted, the dates of those workshops, and the names of the participating language art consultants. Describe each such workshop.

j. On what date was the inter-district teacher exchange program initiated pursuant to the English as a second language program? List the dates of each exchange of teachers, the names of the participating teachers, and the subjects that were observed.

k. What services did participants in the English as a second language program receive that non-participating students did not receive?

l. For each school year from 1965-1970, did the Bernalillo Municipal School District conduct evaluations of the English as a second language program?

m. If the Bernalillo Municipal School District did conduct such evaluations, does there exist a document embodying the results of those evaluations? If such a document exists, furnish the name and address of the person who has control and custody of said document and attach a copy thereof to your answer.

n. List the issues of the Bernalillo High School Newspaper in which information on the English as a second language program was disseminated.

o. List the names of the parents who attended the Open House sponsored by the Bernalillo Municipal School District in order to familiarize them with the English as a second language program. On what date was the Open House held?

30. For each school year from 1965-1970, in the Bernalillo Municipal School District, describe in detail the Physical Education program financed by Title I of the Elementary and Secondary Education Act and indicate the cost of that program, the names of the students who participated, and the school that each such student attended.

a. How were students chosen for participation in the Title I physical education program?

b. Was the Title I physical education program open to all pupils in each target school?

c. List the names of all Indian children who participated in the Title I physical education program.

d. Specify the names of the teachers assigned to the Title I physical education program, the services which they rendered students participating in the program, and the manner in which those services differed from services offered to children who were not participating in the Title I physical education program.

e. What was the total number of hours of physical education classes received by each student in each grade level who participated in the Title I physical education program?

f. What was the total number of hours of physical education classes received by each student in each grade level who did not participate in the Title I physical education program?

g. How was it determined that a physical education program under Title I was related to the special educational needs of disadvantaged children within the meaning of that Act?

h. Was the improvement of postural mechanics a purpose of the Title I physical education program? What does this mean?

i. Were inter-school games financed under the Title I physical education program?

j. List the instances and dates that information about the Title I physical education program was disseminated.

k. Specify the manner and the dates that parents were involved in the Title I physical education program.

31. For each school year from 1965-1970, in the Bernalillo Municipal School District, describe in detail the Music program financed by Title I

I of the Elementary and Secondary Education Act and indicate the cost of that program, the names of the students who participated, and the school that each such student attended.

a. How were students chosen for participation in the Title I music program?

b. Was the Title I music program open to all elementary students at the Roosevelt, Roosevelt Annes, Placitas and Algodones schools?

c. List the names of all Indian children who participated in the Title I music program.

d. Specify the names of the teachers assigned to the Title I music program, the services which they rendered students participating in the program, and the manner in which those services differed from services offered to children who were not participating in the Title I music program.

e. What was the total number of hours of music instruction received by each student in each grade level who participated in the Title I music program?

f. What was the total number of hours of music instruction received by each student in each grade level who did not participate in the Title I music program?

g. How was it determined that a music program under Title I was related to the special educational needs of disadvantaged children within the meaning of that Act?

h. Specify the dates that musical programs were presented by students for a parent audience as a part of the Title I music program.

32. For each school year from 1965-1970, in the Bernalillo Municipal School District, describe in detail the arts and crafts program financed by Title I of the Elementary and Secondary Education Act and indicate the cost of that program, the names of the students who participated, and the school that each such student attended.

a. How were students chosen for participation in the Title I arts and crafts program?

b. Was the Title I arts and crafts program open to all students in all classes of the Bernalillo Junior High School?

c. List the names of all Indian children who participated in the Title I arts and crafts program.

d. Specify the names of the teachers assigned to the Title I arts and crafts program, the services which they rendered students participating in the program, and the manner in which those services differed from services offered to children who were not participating in the Title I arts and crafts program.

e. What was the total number of hours of arts and crafts instruction received by each student in each grade level who participated in the Title I arts and crafts program?

f. What was the total number of hours of arts and crafts instruction received by each student in each grade level who did not participate in the Title I arts and crafts program?

g. How was it determined that an arts and crafts program under Title I was related to the special educational needs of disadvantaged children within the meaning of that Act? Describe the relationship between the needs of educationally disadvantaged children and the Title I arts and crafts program.

h. Was small muscle coordination and development an object of the Title I arts and crafts program? If small muscle coordination and development was an object of the program, describe the relationship between that object and the needs of educationally deprived children.

33. For each school year from 1965-1970, in the Bernalillo Municipal School District, describe in detail the attendance and family counseling program financed by Title I of the Elementary and Secondary Education Act and indicate the cost of that program and the schools at which it was in effect.

a. Was the Title I attendance and family counseling program open to all pupils with attendance problems in the target schools?

b. Were investigations of the high dropout and truancy rates undertaken under the Title I attendance and family counseling program?

c. If investigations of the high dropout and truancy rates were undertaken under the Title I attendance and family counseling program, does there exist a document embodying the results of these investigations? If such a document exists, furnish the name and address of the person with custody and control of said document and attach a copy thereof to your answer.

d. Specify the names of the counselors assigned to the Title I attendance and family counseling program, the services which they rendered students eligible for Title I assistance, and the manner in which those services differed from services offered to children who were not eligible for Title I assistance.

e. Specify the names of the attendance officers assigned to the Title I attendance and family counseling program, the services which they rendered students eligible for Title I assistance, and the manner in which those services differed from services offered to children who were not eligible for Title I assistance.

f. List the dates and the names of Indian parents who were visited in their homes under the Title I attendance and counseling program in order to get first-hand information on the needs of the children and to inform parents about Title I services.

g. Specify the dropout rate for the Bernalillo Municipal School District for each school year from 1965-1970.

h. Specify the truancy rate for the Bernalillo Municipal School District for each school year from 1965-1970.

i. What was the total number of hours of attendance and family counseling received by each student in each grade level who participated in the Title I attendance and family counseling program?

j. What was the total number of hours of attendance and family counseling received by each student in each grade level who did not participate in the Title I attendance and family counseling program?

34. For each school year from 1965-1970, in the Bernalillo Municipal School District, describe in detail the food service program financed by Title I of the Elementary and Secondary Education Act and indicate the cost of that program.

a. Indicate the names of all the students who received free meals pursuant to the Title I food services program.

b. Indicate the total number of free meals provided under Title I during each school year from 1965-1970.

c. How were children chosen for participation in the Title I food service program?

35. For each school year from 1965-1970, specify the name of the person employed by the Bernalillo Municipal School District as the Coordinator of Guidance Service and paid from funds provided under Title I of the Elementary and Secondary Education Act, the salary which this person was paid, and the schools at which said person provided educational services.

a. Were the services of the Coordinator of Guidance Service available to all personnel and students in the Bernalillo Municipal School District.

b. Were questionnaires filled out be twelfth grade students and by teachers in order to evaluate the guidance program?

c. If questionnaires were filled out by twelfth grade students and by teachers, furnish the name and address of the person who has custody and control over said questionnaires and attach copies thereof to your answer.

d. List all in-service educational workshops held under the Title I guidance program, the dates of these workshops, and the names of the teachers and counselors who participated.

e. List the issues of the Bernalillo High School Newspaper in which information on the Title I guidance program was disseminated.

36. For each school year from 1965-1970, in the Bernalillo Municipal School District, describe in detail the dental health program financed by Title I of the Elementary and Secondary Education Act and indicate the cost of that program and the schools at which it was in effect.

a. How were students chosen for participation in the Title I dental health program?

b. Was the Title I dental health program open to all the students in the target schools?

c. List the names of the pupils who received dental care pursuant to the Title I dental health program.

d. Specify the names of nurses and dentists assigned to the Title I dental health program and the manner in which the services which the offered students eligible for Title I assistance differed from dental services offered to students who were not eligible for Title I assistance.

37. For each school year from 1965-1970, in the Bernalillo Municipal School District, describe the medical health program financed by Title I of the Elementary and Secondary Education Act and indicate the cost of that program and the schools at which it was in effect.

a. How were students chosen for participation in the Title I medical health program?

b. Was the Title I medical health program open to all the students in the target schools?

c. List the names of the pupils who received medical care pursuant to the Title I medical health program.

d. Specify the names of nurses and doctors assigned to the Title I medical health program and the manner in which the services which they offered students eligible for Title I assistance differed from medical services offered to students who were not eligible for Title I assistance.

38. For each school year from 1965-1970, in the Bernalillo Municipal School District, describe in detail the elementary school library program financed by Title I of the Elementary and Secondary Education Act and indicate the cost of that program, the names of the students who participated, and the schools at which the program was in effect.

a. How were students chosen for participation in the Title I elementary school library program?

b. Was the Title I elementary school library program open to all students in the target schools?

c. Was theTitle I elementary school library program open to all students at the Roosevelt and Santo Domingo schools?

d. Specify the names of the librarians assigned to the Title I elementary school library program, the services **which** they rendered students participating in the program, and the manner in which those services differed from the services offered to students who were not participating in the program.

e. What was the total number of hours of library time allowed to each student in each grade level who participated in the Title I elementary school library program?

f. What was the total number of hours of library time allowed to each student in each grade level who did not participate in the Title I elementary school library program?

g. Were classes of children who were ineligible for Title I assistance assigned library periods under the Title I elementary school library program?

h. What were the library hours at the Santo Domingo school?

i. What were the library hours at the Roosevelt school and the Bernalillo Junior High School?

j. How many books were contained in the library at the Santo Domingo school?

k. How many books were contained in the library at the Roosevelt school?

l. How Many books were contained in the library at the Bernalillo Junior High School?

39. For each school year from 1965-1970, in the Bernalillo Municipal School District, describe in detail the function and activities of the Curriculum Materials Center, and indicate the costs of this program.

a. What amount of Title I funds was used to pay the costs of the Curriculum Materials Center?

b. Was an objective of the Curriculum Materials Center to bring the Bernalillo Municipal School system up to the Office of Education's quantitative standards for audio-visual equipment and teaching aids? If so, how is this related to the special educational needs of educationally deprived children within the meaning of Title I of the Elementary and Secondary Education Act?

c. Were services offered by the Curriculum Materials Center open to all students in the Bernalillo Municipal School District?

d. Did the Curriculum Materials Center distribute Title I equipment based on the number of eligible children for Title I assistance in each school building?

e. List each item of Title I equipment distributed by the Curriculum Materials Center, the cost of each item, the school to which each was sent, and the purpose for which each was to be employed.

f. List each item of non-Title I equipment distributed by the Curriculum Materials Center, the cost of each item, the school to which each was sent and the purposes for which each was to be employed.

g. List all Title I equipment transferred back to the Curriculum Materials Center, the cost of each item, and the school from which each was transferred.

h. Indicate the dates and the participants in in-service training programs provided by the Curriculum Materials Center in order to train teachers and substitute teachers in the operation of audio-visual equipment.

i. Was the salary of the Curriculum Materials Center Coordinator paid from funds provided under Title I of the Elementary and Secondary Education Act?

40. For each school year from 1965-1970, in the Bernalillo Municipal School District, list each program and employee salary which was paid for in whole or in part from Title I funds, but which was previously paid from other funding sources.

41. For each school year from 1965-1970, did the Bernalillo Municipal School District establish a Title I Advisory Committee to allow parents and community groups to participate in the Title I decision-making process?

a. Specify the dates on which the Title I Advisory Committee met.

b. List the names and addresses of the members of the Title I Advisory Committee.

c. Specify the manner in which the Title I Advisory Committee assisted the Bernalillo Municipal School District in determining the needs of educationally disadvantaged children.

d. How were the members of the Title I Advisory Committee chosen?

e. If the Bernalillo Municipal School District did not establish a Title I Advisory Committee, indicate how parents and community groups were involved in making decisions with regard to the Title I program. List the names of the parents and community groups involved, and the dates that they were consulted.

42. Has the Bernalillo Municipal School District undertaken an audit subsequent to the filing of this lawsuit? If the school district has undertaken such an audit, on what date will it be completed?

43. If the Bernalillo Municipal School District has undertaken and completed an audit subsequent to the filing of this lawsuit, does there exist a document embodying the results of that audit? If such a document exists, furnish the name and address of the person who has custody and control of said document, and attach a copy thereof to your answer.

UNITED STATES DISTRICT COURT

DISTRICT OF RHODE ISLAND

BABBIDGE, ET AL.,

Plaintiffs

vs.

RICHARDSON, ET AL.,

Defendants

Civil Action File No.4410

Request To Produce Documents

Plaintiffs Babbidge, et al, hereby request, pursuant to Rule 34 of The Federal Rules of Civil Procedure, that defendant produce and permit plaintiffs to inspect and to copy each of the following documents:

1. Copies of all Title (ESEA) Project Applications submitted for the years 1965-1966 through 1970-1971 inclusive, including all attachments, memoranda, and correspondence relating to said applications;

2. Copies of all memoranda, correspondence or any other documents containing a narrative description of the Title I Programs proposed in the respective Title I Project Applications as referred to in item #1 above, whether or not said other documents were submitted with the said project applications;

3. Copies of all formal or informal complaints received by any local, state or federal official or agency regarding the operation of the Title I Program in Providence, Rhode Island, for the years 1965-1966 through 1970-1971 inclusive, which are now in the possession of or accessible to, Providence, Rhode Island, educational officials.

4. Copies of all documents, including memoranda containing or relating to correspondence between Providence, Rhode Island, educational officials and State of Rhode Island educational officials, and between said State or local officials and the United States Office of Education, concerning Title I programs as referred to in item #1 above and complaints about Title I programs as referred to in item #2 above.

5. Copies of all annual budgets and financial statements and independent audits, if any, relating to the disbursement and allocation of Providence School District monies for each school and system-wide in the years 1964-65 through 1970-71 inclusive.

6. Copies of all documents and records relating to the disbursement and allocation of Title I monies in the years 1965-66 through 1970-71.

7. Copies of all equipment inventories, purchase or other acquisition records, evaluations, and audits of the Title I program in Providence, Rhode Island, school by school and system-wide for the years 1965-66 through 1970-71 inclusive.

8. Copies of all equipment inventories, purchase or other acquisition records, evaluations, and audits of the Providence, Rhode Island School District school by school and system-wide, for the years 1964-65 through 1970-71 inclusive.

9. Copies of all document, memorandum, budgets and other records relating to or containing information during the years 1965-66 through 1970-71 concerning the following:

a. With respect to each school in the system, the number of teachers and other personnel paid wholly or in part by Title I funds, the title, job description, total salary and portion thereof paid out of Title I funds to each staff member, together with educational credentials (degree, particulars of certification, and experience) of each such staff member.

b. With respect to each school in the system, the foregoing information requested in 9a during the years 1964-65 through 1970-71 for all non-Title I teachers, staff members, and other personnel.

c. The description of the specific services performed by all Title I personnel including, in the case of Title I teachers, a specific description of the subjects taught and/or other duties and their school (or schools) of assignment (to the extent such data have not been supplied in response to 9a and b above).

d. With respect to each school, the total number of Title I eligible children in each grade, the criteria employed for determining eligibility, the test scores and/or other selection information employed to determine eligibility for each child, and the number of such eligible children in families receiving Aid for Families with Dependent Children or public assistance payments.

e. With respect to each school, the total number of children in each grade, the average test scores and/or other selection information employed to determine

Title I eligibility, and the number of such children in families receiving Aid for Families with Dependent Children or public assistance payments.

f. With respect to each school, the total number of children participating in Title I programs by program and grade level, the test scores and/or other selection information for each such child employed to determine Title I eligibility, the number of such children in families receiving either Aid for Families with Dependent Children or public assistance payments, the criteria for participation, and the test scores and/or other selection information for each child employed to determine Title I participation.

10. Copies of the minutes of all Providence School Committee meetings during the years 1965-66 through 1970-71 inclusive.

11. Copies of correspondence, records, memoranda and all other documents relating to the participation by parents of Providence, Rhode Island, school children in the formulation, implementation, administration, and evaluation of Title I programs including a list of the members of the Title I parent advisory committee during the years 1965-66 through 1970-71 inclusive.

12. Copies of all records, documents and data used in determining the number of school age children residing in each attendance area in the Providence School District for elementary, middle and high schools for the years 1965-66 through 1970-71 inclusive.

13. Copies of all records, documents and data used in determining the number of low income school age children residing in each attendance area in the Providence School District for the years 1965-66 through 1970-71 inclusive.

14. For each school, the number of pupils bussed into the school from other attendance areas in order to achieve racial intergration, the criteria employed to select such pupils, the test scores and/or other selection information for each such child employed to determine Title I eligibility, the number of such children participating in Title I programs at the beginning of each school year, and the number of such children participating in Title I programs at the end of each year; also indicate the number of such children in families receiving Aid for Families with Dependent Children or public assistance payments.

It is requested that the aforesaid production be made at the convenience of the defendants during the Christmas recess, 1970 not later than the 28th day of December, 1970, at 9 o'clock in the A. M., at the Providence School Department, 150 Washington Street, Providence, Rhode Island. Inspection will be made by Plaintiffs' counsel from day to day until completed.

Plaintiffs further request that the foregoing Request to Produce Documents be treated by the defendants as complementary to the Interrogatories filed and served upon the defendants, and that the information sought to be elicited by both document be furnished only once in the form and manner most convenient and readily available to the defendants.

Harold E. Krause, Jr.

Harold E. Krause, Jr.
Attorney for Plaintiffs
Rhode Island Legal Services, Inc.
56 Pine Street
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Cary J. Coen
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VIII. AUBITS AND INVESTIGATIONS

VIII.

AUDITS AND INVESTIGATIONS

This section includes examples of reports on violations in Title I programs. Having compiled the information previously discussed, a Title I investigator should be in a position to prepare such a report. Also included is a General Accounting Office audit and Program Guide #70 on H.E.W. complaint procedure. The latter indicates the kinds of information which H.E.W. requires of a state when a complaint has been filed. Note, however, that the H.E.W. complaint and audit procedure is only one avenue open to Title I advocates. It can be useful in a situation where community interest is low and litigation unwieldy. However, because of the time involved in securing H.E.W. complaint reviews and audits and because the focus may shift from your community to prodding H.E.W. in Washington--the complaint route may be disfunctional in many cases.

Description of Title I Violations in Bernalillo Municipal School District, Sandoval Country, New Mexico.

HARVARD UNIVERSITY

CENTER FOR LAW AND EDUCATION

Mailing Address:

24 Garden Street
Cambridge, Massachusetts 02138
617-868-7600 x 4666

11 February 1970

The Honorable Senator Edward M. Kennedy
3214 New Senate Office Building
Washington, D.C. 20510

Dear Senator Kennedy:

I wish to bring to your attention an appalling situation in the Bernalillo school district in Sandoval County New Mexico, where poor Pueblo children are being discriminated against and deprived of statutory rights granted to them under Title I of the Elementary and Secondary Education Act of 1965.

During the week of February 2, 1970, I visited the Bernalillo school district at the request of the Coordinating Committee of the Santa Ana, Sandia, Santo Domingo, San Felipe and Cochiti Pueblos. These Pueblos have initiated a legal action against the Bernalillo school board and other parties in order to secure a quality education for Indian children, and the Center for Law and Education is assisting in this effort. I reviewed the project applications for Title I funds submitted by the school board for fiscal years 1966-67, 1967-68, 1968-69 and 1969-70. After visiting five of the seven schools in the Bernalillo district, accompanied by members of the Pueblo Education Committee, I concluded that the local school authorities were disregarding the Title I regulations, that the project applications did not reflect accurately the actual allocation of Title I funds, and that most of the funds were being expended unlawfully. Specifically, I reached the following conclusions:

1. Librarians, teachers, nurses, and counselors are paid from Title I funds even though they provide services to students who are not eligible for Title I assistance.

2. Poor Indian students do not receive remedial reading or language reinforcement services even though such "promises" provide the basis for the district's applications for Title I funds. Teachers at the nearly all Indian Santo Domingo school informed me that, with the exception of one third grade class, no students receive English instruction beyond that which all other students in the district receive.

3. Equipment purchased from Title I funds for poor children has been illegally made available to entire school populations. Indeed, there is evidence that equipment purchased for the Santo Domingo school (98% Indian), including tape recorders, television sets, phonographs, and projectors, has been illegally and clandestinely transferred to other schools in the district, where they are used, at least in part, by ineligible students.

4. Cafeteria facilities, textbooks, and special education classes at the Santo Domingo school are not comparable to those provided in other schools in the district as Title I regulations require.

5. The Bernalillo school board has not taken any steps to establish a parent advisory committee or to establish any mechanism for effective community and parental participation in the Title I decision-making process, as the Title I guidelines and regulations require. In terms of the hiring of teacher aides, the appointment of new members to the school board, and the selection of subjects for inclusion in the curriculum, the wishes of the Pueblo communities have been ignored.

6. Some of the programs financed by Title I are unrelated to the needs of poor Indian children, and consistently have been opposed by the Pueblo communities. For example, arts and crafts is paid for out of Title I funds on the theory that it will increase "small muscle " coordination. Such an expenditure is outrageous in view of the far more pressing need, recognized by Pueblo parents if not by the school board, to provide poor Indian children with English language skills.

7. In general, Title I and Johnson-O'Malley Act funds are treated as non-catergorical aid which the board may spend as it deems appropriate.

In terms of the immediate exigencies of the situation, an audit of the Bernalillo school district by the HEW Audit Agency is absolutely essential to the preservation of the rights of the poor Indian children in the district. Since the school board's budgets and Title I applications often are inaccurate and misleading, and since they do not provide a school by school breakdown of expenditures, a detailed audit is the only viable approach for delineating the precise nature and extent of the Title I violations. It would be unconscionable to place the severe financial burden of a private audit on the Pueblos. Therefore, I respectfully request that you urge the appropriate officials in the Department of Health, Education, and Welfare, including Mr. Mallen of the HEW Audit Agency, Secretary Finch, and Commissioner Allen to undertake an audit. I am hopeful that in view of your membership on the Subcommittee on Education of the Senate Committee on Labor and Public Welfare, and the continuing interest in the welfare of Indian citizens which you have demonstrated, that these officials will respond immediately to your request.

Thank you for your kind attention.

Sincerely,

Mark G. Yudof
Title I Coordinator

MGY:mfr

An Examination of the San Luis Valley Title I Application for 1971 - 1972

Harvard Center for
Law and Education

Paul Smith
October 6, 1971

Incompleteness of the Application:

The copy of the San Luis Valley Title I application given to me is both woefully incomplete, and, in part, suspect. The letter (August 9, 1971; Ernest Maestas) from the State Department of Education lists eight deficiencies; some of them, such as the absence of a complete budget, are critical, and make a responsible review of the application as a whole impossible. Other deficiencies, not mentioned by the state, are:

1. The absence of pages 6 and 7 of the state application for each of the separate districts.
2. The absence of average per pupil expenditures for Centennial.
3. The total authorized salary expenditure shown for the consolidated project on page 3, column 2, line 12 subtotal is $354,537. The sum of the federal share of the salary budgets of the individual districts is $359,323.45.
4. The absence of any indication of the source of data from which the number of low-income children in Del Norte was determined.
5. Widespread arithmetical errors - for example, the North Conejos section, page 2, alone contains two errors in addition which distort both the number of low income children and the count of participants.

As a consequence, my following discussion of the San Luis Valley application cannot be exhaustive. I have corrected all the mistakes that I could identify, but the absence of fundamental data on the project budget and on the numbers and locations of low-income children makes it impossible for anyone - the State Department of Education included - to detect many violations of the Federal regulations that may well exist. I will be eager to examine any complete and conscientiously worked application this project may later submit.

Targeting of the Project to Low-Income Areas:

Provision is made for consolidated applications in the Federal Title I regulations, para. 116.17 (e). (A copy of the Regulations is enclosed.) That paragraph clearly states that the eligibility of a school is to be computed based on its proportion of low-income children relative to the district that contains it. Yet 105 of the 285 participating children in the Alamosa district are located in schools that have less than 15.5 percent poor children in them, where 15.5 percent is the Alamosa district-wide percent of low-income children. Of the total Alamosa salary money spent on elementary school children, more than one third is targeted to ineligible schools. Table 1 shows the Alamosa targeting.

Further, if the project wishes to dispute the within-district targeting rule, then every school in Alamosa, Monte Vista, and Mt. Valley districts is ineligible, since those schools all have fewer than 33.7 percent poor - the overall percent of low-income families.

There is an even less conscionable misallocation of resources built into the consolidated application. Program Guide #44, paragraph 4.6 (attached) states:

> The applicant should make sure that the needs of children in eligible areas with the highest incidence of poverty have been met before considering the needs of children in eligible areas in which the incidence is much lower.

Table 2 shows, by district, the incidence of poverty and the per poor child salary expenditure. (I must work with the salary expenditure only since the application does not contain any other part of the budget. The distortion is not severe, because salary constitutes 71 percent of the total federal money requested.) The district as listed in Table 2 with those with the least incidence of poverty at the top. As one can see, the lower the incidence of poverty in a district the higher the salary expenditure per poor child.

As an extreme comparison, Mt. Valley has 34 poor children for an incidence percentage of 14.2, and spends $440.26 per poor child. South Conejos has 575 poor children, and an incidence percentage of 65.3; yet South Conejos has only enough allocated to it to spend $56.15 per poor child.

The effect of the kind of distortion displayed in Table 2 is particularly unfair in the case of a consolidated application. The total money offered by the Federal Government is a function of the number of low-income children in the project area. Had each district applied separately, they would have received approximately 104.15 per poor child (other factors being equal.) Thus the real effect of consolidating the 11 districts is to literally take money from the poorest districts (like Sangre de Cristo and South Conejos) and give more than they could have otherwise received to the richer ones (like Alamosa and Mt. Valley.)

Supplantation of State and Local Funds:

Because the application does not contain a complete project budget, I cannot do more than draw your attention to statements that appear here and there in the project narrative. One such statement clearly indicates that a purpose of part of the project is to save state and local expense:

> This will mean a saving in personnel salaries as well as better control of students. The equipment list will be submitted at a later date.
>
> (Narrative, p. 30)

Such "savings" are exactly what the Title I Program Guides rule out: (Program Guide #45A, attached)

> 5. The applicant proposes to curtail expenditures of State and local funds for certain services and, in effect, to substitute Title I funds in order to maintain those same services in Title I areas.
>
> ...Any applicant that insists on entering a proposal fitting the descriptions in 5 or 6 above must assume the burden of proof that the proposal does not involve the supplanting of State and local funds....

In other words, if there is an existing auto mechanics program being paid for by local funds, it is illegal to use Title I funds to supplant those local funds.

In the same vein: the project application is only for a regular school year program, and there is no mention of any summer component, yet Center district plans to spend $2100 on summer recreational aides. (Center, application p. 4). This sum is more than 5% of that district's total salary budget. Since there is no description of the activities of these summer workers, or of how or which kids will participate, the only conclusion that I can draw is that the schools are merely passing on the Federal government a few stray bills.

Sanford (application, p. 4) proposes to employ a secondary school teacher, in spite of the fact that there seems to be no secondary school component of the project located there. The proposed teacher absorbs more than half of that school system's salary budget.

Objective 8 of the Narrative is, essentially, a plan for spreading teacher's aides throughout every school in the 11 school districts, without any serious regard to the special educational needs of the disadvantaged:

> Each aide will be utilized to share the routine tasks and provide personalized attention and assistance to pupils. (Narrative, p. 37)
>
> Description of Pupils:
>
> There will be approximately 3,200 pupils in grades k-8 located in 11 school districts. (Narrative p. 37)

Alamosa district and Centennial (with 13 and 12 aides, respectively) do not even bother to show the schools to which the aides will be assigned. In spite of the restriction of the "Objective 8" component to grades K through 8th, Monte Vista plans to locate an aide (Sarah Hamby) at the High School.

The point of importance about teacher's aides in this project application is very simple: they are clearly going to be used and used widely for "routine tasks." Federal money is not to be used for "routine tasks," but for supplementary purposes. Furthermore, the negligence with which the consolidated Board of Cooperative Services has set forth the planned use and assignment of the teacher's aides suggests that the matter is of little importance to them.

Finally, while no information at all relating to the "Learning Laboratories" is contained in the application, I will examine it thoroughly when it is available - on the basis of what I have already seen, I think that there is a very real possibility that those labs will be located in the more prosperous school districts and constitute a further instance of the supplantation of local resources.

Other Points:

Regulation para. 116.21 (f) states:

> The State educational agency shall not approve a project involving construction of school facilities if it finds that such construction would lead to, or would tend to maintain, the cultural or linguistic isolation of children.

I call your attention to Objective 9 of the Narrative, pp. 38-40 and room layout. This contains a proposal to construct a separate building for educable mentally handicapped and for the educationally handicapped children in the Centennial district - children who are primarily Spanish speaking. Will this violate the above regulation?

There is no strict requirement that a proposal contain educationally defensible programs. Still, I think any school professional would be severely embarrassed by the Narratives for Objectives 1 and 2.

Following the Colorado state recommendations, the proposal distinguishes - in name only - between the educable mentally retarded and the educationally handicapped. Then it proceeds to outline word for word the same methodology for the treatment of the two groups.

I hope that you will send to me, as soon as possible, the following: (a) any changes or amendments to the current application; (b) the Comparability Report that the schools were legally required to file by June 1971; and, especially, (c) a copy of all past Title I applications from this school district consolidation. If the same practices were followed in the past, as appear in the present application, the school tax payers - particularly of Alamosa and Mt. Valley - may have an interesting surprise in store for them.

Regarding the maintenance and retention of such records, I call your attention to Regulations para. 116.54 and 116.55. As to the public nature of that information: Public Law 91-230, section 110 and the October 16, 1970 advisory letter from HEW (attached) make clear that such information is not to be withheld from the public.

TABLE 1

ALAMOSA School District Targeting Information

School	Total Enrollment	Poor Enrollment	Percent Poor
Secondary:			
High	496	57	11.5
Jr. High	604	79	13.1
Elementary:			
Evans	380	68	17.9
Boyd	311	84	27.0
Central	342	49	14.3
East	178	20	11.2
Waverly	116	16	13.8
Private:			
Sacred	150	(29)	(17.1)
Waverly Christian	20		
Total	2597	402	15.5

TABLE 2

Allocation of Project Salary Expenditures to Districts

District	Number of Children:			Percent Poor	Project Salary Allocated:		
	Total	Poor	Participating		Total	per Participant	per Poor Child
Mt. Valley	240	34	95	14.2	$14,969	$157.57	$440.26
Del Norte	825	125	150	15.2	26,460	176.40	211.68
Alamosa	2597	402	285	15.5	52,349	183.68	130.22
Monte Vista	1764	412	412	23.4	53,202	129.13	129.13
North Conejos	1449	461	600	31.8	56,344	93.91	122.22
Sierra Grande	285	114	235	40.0	17,923	76.27	157.22
Center	860	430	250	50.0	40,280	161.12	93.67
Sanford	373	187	75	50.0	13,491	179.88	72.14
Sangre de Cristo	266	160	65	60.2	6,331	97.40	39.57
South Conejos	875	575	320	65.3	32,286	100.89	56.15
Centennial	690	550	550	79.7	46,009	83.65	83.65
Total	10230	3450	3037	33.7	359,323	118.32	104.15

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

August 20, 1971

Our Reference: ESEA Title I Program Guide #70
DCE/P&P

MEMORANDUM TO CHIEF STATE SCHOOL OFFICERS

Subject: Procedure for Reporting the Investigation and Disposition of Complaints Alleging Violation of the Provisions of ESEA Title I Statute or the Title I Regulations

The purpose of this Program Guide is to establish a systematic reporting procedure regarding the processing and disposition of complaints alleging violations of Title I, ESEA or the Title I Regulations.

Section 116.31(g) of Title I Regulations requires State educational agencies to submit reports to the Commissioner from time to time to enable him to perform his duties under Title I. "Such reports shall include a disclosure of any allegations of substances which may be made by local educational agencies or private individuals or organizations of actions by State or local educational agencies contrary to the provisions of Title I of the Act or the regulations in this part, a summary of the result of any investigations made or hearings held, with respect to those allegations, and a statement of the disposition by the State educational agency of those allegations. It is recognized that the responsibility with respect to the resolution of such matters rests, in the first instance, in the State educational agency."

The enclosed form "Investigation Report on the Administration of ESEA, Title I - OE 4517" is provided for use by your staff in reporting summary information of the results of any investigation made into alleged violations of the Title I statute or regulations. The information will enable the Office of Education to make constructive evaluation of the resolution and final disposition of such allegations.

It is requested that an original and two copies of the report form OE 4517 be prepared and submitted to this Office not later than 15 days after the completion of the investigation. Send completed report to:

U.S. Office of Education
Director, Division of Compensatory Education
Room 3642, ROB#3
7th and D Streets, SW.
Washington, D.C. 20202

Thomas J. Burns
Acting Associate Commissioner for
Elementary and Secondary Education

Enclosure

cc: State Title I Coordinators, ESEA

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

INVESTIGATION REPORT ON THE ADMINISTRATION OF ESEA TITLE I PROGRAM ACTIVITIES

FORM APPROVED, O.M.B. NO. 51-R0844

1. NAME OF STATE EDUCATION AGENCY

2. COMPLAINANT

A. NAME AND TITLE

B. ADDRESS *(include ZIP code)*

2C. DATE COMPLAINT RECEIVED

2D. DESCRIPTION OF ALLEGED VIOLATION(S) MENTIONED IN COMPLAINT

3A. REVIEW TEAM *(name and address of Federal, State or local officials conducting this investigation)*

3B. DATE OF INVESTIGATION *(beginning and ending)*

BEGINNING		
MO.	DAY	YEAR
ENDING		
MO.	DAY	YEAR

4. SCHOOL DISTRICT/INSTITUTION INVESTIGATED

A. NAME

ADDRESS *(include ZIP code)*

4C. TOTAL LEA TITLE I ALLOCATION

4D. FISCAL YEAR

4E. NAME OF TITLE I PROJECT COORDINATOR AT SCHOOL DISTRICT

4F. SUPERINTENDENT OF SCHOOL DISTRICT

4G. POPULATION OF SCHOOL DISTRICT

5. NUMBER OF PUBLIC AND PRIVATE SCHOOLS AND NUMBER OF SCHOOL AGE RESIDENT CHILDREN IN THE SCHOOL DISTRICT WHO ARE PARTICIPATING IN TITLE I PROGRAM ACTIVITIES

	TOTAL NUMBER OF SCHOOLS		TOTAL NUMBER OF CHILDREN ENROLLED IN SCHOOLS	
	PUBLIC	PRIVATE	PUBLIC	PRIVATE
A. IN SCHOOL DISTRICT				
B. PARTICIPATING IN TITLE I				

6. NUMBER OF RESIDENT CHILDREN PARTICIPATING IN TITLE I BY ETHNIC GROUPS

	AMERICAN INDIAN (1)	NEGRO/ BLACK (2)	ORIENTAL (3)	SPANISH-SURNAMED			ALL OTHER INDIVIDUALS NOT INCLUDED IN COLUMNS (1)-(6) (7)
				PUERTO RICAN (4)	MEXICAN AMERICAN (5)	OTHER (6)	
A. IN SCHOOL DISTRICT							
B. PARTICIPATING IN TITLE I							

BRIEF TITLE OF TITLE I PROJECT

7A. AMOUNT OF TITLE I FUNDS APPROVED FOR THIS PROJECT

$

NAME AND POSITION OF LEA STAFF INTERVIEWED, INCLUDING STAFF MEMBERS IN SCHOOLS WHERE TITLE I ACTIVITIES ARE BEING CONDUCTED

FORM 4517, 7/71

(continued on reverse)

9. IDENTIFY ALL TITLE I DOCUMENTS REVIEWED *(i.e., application proposal, evaluation reports, parental council records, fiscal control and accounting records, financial and audit reports, etc.)*

10. FROM THE LIST BELOW, IDENTIFY *(check)* THE AREAS IN WHICH THE COMPLAINT OR THE INVESTIGATION INDICATES VIOLATIONS OF TITLE I REGULATIONS

☐ a. Selection of attendance areas.
☐ b. Needs assessment.
☐ c. Selection of Title I participants.
☐ d. General aid.
☐ e. Supplanting State and local funds.
☐ f. Involvement of parents.
☐ g. Services provided private school children.
☐ h. Evaluation of Title I projects.
☐ i. Services to children living in institutions for neglected or delinquent children.
☐ j. Effect of Title I program on cultural or racial isolation.
☐ k. Coordination of resources with other programs.
☐ l. Dissemination of public information on Title I programs.
☐ m. Reporting requirements.
☐ n. Comparability.
☐ o. Other *(specify)*

FOR EACH AREA CHECKED, PROVIDE A DETAILED STATEMENT OF THE ESSENTIAL FACTS AND OF THE CONCLUSIONS REACHED CONCERNING THE NATURE AND EXTENT OF THE VIOLATIONS *(if necessary, continue on attachments)*

11. INDICATE WHAT ACTION YOUR STATE WILL TAKE TO INSURE PROPER RESOLUTION OF THE COMPLAINT AND OF ANY DEFICIENCIES NOTED DURING THE INVESTIGATION. *(If necessary, continue on attachments)*

12. WHAT CORRECTIVE ACTION, IF ANY, DO YOU RECOMMEND THE U.S. OFFICE OF EDUCATION TAKE TO ASSIST THE SEA IN RESOLVING PROBLEMS OR CORRECTING VIOLATIONS COVERED BY THIS REPORT? *(If necessary, continue on attachments)*

TYPE OR PRINT NAME OF SEA TITLE I COORDINATOR	SIGNATURE OF SEA TITLE I COORDINATOR			DATE SIGNED
NAME OF PERSON WHO PREPARED THIS REPORT	AREA CODE	TELEPHONE NUMBER	EXTENSION	DATE PREPARED

TITLE I AREA TEAMS: These are the HEW Officials Responsible for Title I Complaints

AREA TEAM I - (Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Puerto Rico, Virgin Islands)

	room	
William Bryant (Chief)	2107B	963-7956
Charles Dell	2107B	963-6309
Gus Cheatham	2107A	963-7955
Kathy Davis	2101	963-6220

AREA TEAM II - (Delaware, D.C., Maryland, Pennsylvania, Virginia, West Virginia, Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin)

Benjamin Rice (Chief)	2103B	963-3678
Tinsley L. Spraggins	2107A	963-4466
Naomi Wedemeyer	2101A	963-3678
Billie Wilson	2101	963-4021

AREA TEAM III - (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

John Pride (Chief)	2107C	963-7958
Mario George	2111A	963-6309
Terry Lynch	2111A	963-6309
Edna Ellicott	2107C	963-7957
Mimi Blaine	2109	963-7957
Ophelia Scott	2107	963-6220

AREA TEAM IV - (Arkansas, Louisiana, Mew Mexico, Oklahoma, Texas, Iowa, Kansas, Missouri, Nebraska)

Gene C. Fusco (Chief)	2113A	962-8833
Hesiquio Rodriques	2113A	962-8831
Dorothy Papadakis	2108	962-1766
Edward Smith	2108	962-1767
Mildred Young	2113	962-8833
Janice Harris	2113	962-8831

AREA TEAM V - (the West - or The Rest)

Paul Miller (Chief)	2099A	962-3611
William Johnson	2099B	963-4357
William Lobosco	2099B	963-4357
Dick Joyce	2101A	962-3611
Bernice Thompson	2099	963-7891

Office of Education, HEW
400 Maryland Avenue, SW, Washington, D.C. 20202

UNITED STATES GENERAL ACCOUNTING OFFICE

REPORT TO THE CONGRESS

Improved Administration Needed In New Jersey For The Federal Program Of Aid To Educationally Deprived Children

B-164031(1)

Office of Education

Department of Health, Education, and Welfare

BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

APRIL 7, 1971

CHAPTER 3

PARTICIPATION AND SELECTION OF SCHOOL ATTENDANCE AREAS

The Camden LEA conducted title I projects in all its school attendance areas, some of which had not been designated by the LEA as having high concentrations of children from low-income families. We estimated that title I funds in excess of $240,000 were expended in these areas.

Although the LEA gathered data on low-income families in the city, the data did not relate to school attendance areas. The LEA's title I coordinator informed us that the selection of school attendance areas for participation in the title I program was based primarily on his general knowledge of economic deprivation in the city. The basis for the selection was not documented although documentation was required by title I regulations. As a result, the SEA and other parties having an interest in the program were not in a position to know whether title I funds provided to the LEA were being spent on those children the program was intended to serve.

IMPORTANCE OF DETERMINATION OF PARTICIPATING SCHOOL ATTENDANCE AREAS

The Elementary and Secondary Education Act of 1965 provides that title I funds be used for projects which are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families, on the basis that educational deprivation usually exists in such areas.

The Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor, in their respective reports on the legislation which was later enacted as the Elementary and Secondary Education Act of 1965, stated that it had been apparent for some time that there was a close relationship between conditions of poverty and lack of educational development and poor academic performance. The Committees reported that testimony received during deliberations on the legislation illustrated that the conditions of poverty or economic deprivation produced an environment which, in too many cases, precludes children's taking full advantage of the educational facilities provided.

It was the Committees' belief that these children had been so conditioned by their home environment that they were not adaptable to ordinary educational programs. Existing environmental conditions and inadequate educational programs, rather than lack of basic mental aptitude, were cited as being principally responsible for the failure of these children to perform adequately in the school system.

Title I regulations define an area of high concentration of children from low-income families as being a school attendance area where such concentration is as high as, or is higher than, the average concentration of such children for the school district as a whole. Such areas of high concentration are considered as being the program's "project area."

Since the beneficiaries of the title I program are to be the educationally deprived children who reside in areas having high concentrations of children from low-income families, it is evident that determining which school attendance areas are to participate in each LEA's program is one of the more important aspects of the title I program, if the limited program funds available are to be utilized for assisting the children the program is intended to serve.

PROGRAM REQUIREMENTS

In keeping with the concept that a correlation exists between the educationally deprived and the economically disadvantaged, Office of Education guidelines, which supplement the title I regulations, state that a school attendance area will be eligible to participate in the program if it has a concentration of children from low-income families which is equal to or greater than the average concentration of such children for the LEA as a whole.

The guidelines state also that a school attendance area will be eligible to participate either if the percentage of children from low-income families in the area is equal to the percentage for the entire LEA or if the number of children from low-income families in the area is equal to the numerical average of such children in the LEA.

Beginning with fiscal year 1969, the Office of Education amended the guidelines to place a ceiling on the total number of school attendance areas that would be accepted for participation in the title I program in each LEA. This ceiling was to be determined on the basis of the highest number of areas that would qualify under one of, but not both, the prescribed bases--percentage of concentration or numerical average.

The guidelines place in each LEA the responsibility for obtaining data for identifying low-income families in school attendance areas within an LEA's jurisdiction. The guidelines do not specify the source data to be used in identifying children from low-income families in each school attendance area or in an LEA as a whole but, rather, provide considerable latitude to an LEA, in this respect. Among the source data considered acceptable by the Office of Education are records on payments of aid to families with dependent children under title IV of the Social Security Act and other welfare data, health statistics, and data from school surveys containing information on or related to family income.

In addition to the general guidelines above, specific instructions have been issued by the Office of Education in regard to the preparation of an LEA's project application. These instructions provide that the sources of the data used for determining the number of children from low-income families in an LEA be stated in the application, and that such data be made a part of each LEA's official title I records.

PROGRAM WAS NOT LIMITED TO SCHOOL ATTENDANCE AREAS DESIGNATED TO PARTICIPATE IN THE PROGRAM

The Camden LEA designated 21 of its 29 school attendance areas to participate in the program in fiscal year 1966, 20 of 28 in 1967 and 1968, and 19 of 28 in 1969. Instead of conducting title I projects only in those areas designated as having high concentrations of children from low-income families, however, the LEA conducted various title I project activities in all its school attendance areas during each of these years. We estimated that more than $240,000 of title I funds were expended for items and services--such as audio-visual equipment, corrective reading instructors and textbooks, physical education instructors and equipment, and instructional aides--in areas that the LEA had not designated as having high concentrations of children from low-income families.

LEA officials informed us that they had been advised by SEA officials that it was permissible for the LEA to spend up to 15 percent of its title I funds in school attendance areas that had not been designated to participate in the title I program. These officials, however, were unable to furnish us with supporting documentation.

SEA officials informed us that they were unaware of any State or Federal directive which permitted an LEA to spend up to 15 percent of its title I funds in school attendance areas outside the project area. We were informed also that the SEA had not given the Camden LEA permission to conduct title I projects in school attendance areas not designated to participate in the title I program.

DOCUMENTATION SUPPORTING SELECTION OF SCHOOL ATTENDANCE AREAS NOT MAINTAINED

LEAs are responsible for selecting school attendance areas to participate in the title I program and are required to maintain documentation supporting their selections, as part of their official program records. Office of Education officials have informed us that the LEAs' records are to contain sufficient documentation to enable the SEAs to ascertain whether the LEAs proceeded correctly in their selections. These officials stated also that, in the event any members of the communities questioned the selections of school attendance areas for participation, the LEAs' records could be used to show that the selections were not determined arbitrarily but were determined objectively by applying selection procedures established by the Office of Education.

We discussed the Camden LEA's selection of areas to participate with its title I coordinator who informed us that, in determining the project areas for fiscal years 1966 through 1970, he used 1960 census data; a 1965 community action program application prepared by the Camden Council on Economic Opportunity; statistics on aid to families with dependent children; and, for fiscal year 1966 only, an income survey made by the Office of Economic Opportunity in the north section of the City. We noted, however, that the data did not relate to individual school attendance areas but to the city as a whole or to other geographical breakdowns such as census tracts.

He informed us further that he applied his knowledge of economic deprivation in the city to the above data to determine the percentage of concentration of children from low-income families in each school attendance area. These percentage-of-concentration figures were then used to select the school attendance areas to participate in the program. We noted that eight of these areas, each of which the title I coordinator had determined to have a concentration of 25.6 percent in fiscal years 1967 and 1968, were shown in the LEA's fiscal year 1969 title I project application as having concentrations ranging from 26.7 to 36.4 percent and in the fiscal year 1970 project application as having concentrations ranging from 35.1 to 50.7 percent. The title I coordinator, however, informed us that, from the beginning of the program in fiscal year 1966, no documentation had been maintained by the LEA to support the method used to determine the percentage concentrations shown in the title I project applications, although such documentation was required by the Office of Education.

CONCLUSIONS

In each of the first 4 years of the Camden LEA's title I program operations, title I funds were expended in school attendance areas that had not been designated to participate in the program because LEA officials believed that it was permissible to expend up to 15 percent of the LEA's title I funds outside of project area schools. In addition, the LEA did not document the basis for selection of school attendance areas to participate in the title I program. As a result, Office of Education and SEA officials responsible for program administration were not in a position to know whether title I funds provided to the Camden LEA were being spent on those children the title I program was intended to serve.

RECOMMENDATION TO THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

We recommend that the Secretary emphasize to the New Jersey SEA the need to ensure that LEAs (1) select and document project areas in accordance with applicable program criteria and (2) concentrate program assistance to the fullest extent in those school attendance areas designated as having high concentrations of children from low-income families.

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HEW's comments on our draft report were furnished by the Assistant Secretary, Comptroller, in a letter dated December 21, 1970. (See app. IV.)

The Assistant Secretary stated that the Department concurred in our recommendation and that the Office of Education, in a letter to the New Jersey commissioner of education, would urge that the SEA strengthen its procedures for project review and approval and for program monitoring so as to preclude further deviations from program regulations governing selection criteria and from the terms of approved project applications.

CHAPTER 4

SOME PROJECTS WERE NOT DESIGNED TO MEET THE SPECIAL NEEDS OF EDUCATIONALLY DEPRIVED CHILDREN

The LEA designed and conducted certain title I projects for both public school and private school children on the basis that Camden's school system, in general, lacked the facilities, services, equipment, or materials which would be supplied under the projects rather than on the basis that the projects would meet the special educational needs of educationally deprived children in areas having high concentrations of children from low-income families. In addition, the services, equipment, and materials provided under these projects were, in several instances, made available to all public school children in certain grade levels (physical education), to all public schools (audio-visual equipment), and to all children in all public elementary schools (textbooks).

It appeared that the operation of a substantial part of the LEA's title I program did not result in a special educational program for educationally deprived children but in a program of general aid to both the public and private school systems which, according to Office of Education officials, was contrary to the objectives of the title I program. These projects are described briefly in appendix I.

PROGRAM REQUIREMENTS

Title I regulations require that each project be designed for those educationally deprived children in the project area who have the greatest need for special educational assistance and that the LEAs' applications describe the special educational needs of such children. The regulations require also that projects should not be designed merely to meet the needs of schools, the student body at large in a school, or students in a specified grade in a school.

Office of Education guidelines point out that, prior to the initiation of a title I project, the main activities or services proposed for any project should be related to specific characteristics of the educationally deprived children to be served. The guidelines point out also that sufficient resources should be concentrated on these children to ensure that their special educational needs will be significantly reduced and that the help provided will not be fragmentary. The following statement is included in the Office of Education policy manual governing the conduct of title I projects.

> "Title I of the Elementary and Secondary Education Act of 1965 does not provide general aid to education. Instead, Congress has made it a unique program of categorical aid. Unlike other Acts, Title I does not seek to stimulate the development of selected areas of the regular school curriculum but rather to provide special programs for selected children. The spirit of Title I, then, is one of extending educational help and related services to the children who most need this help. The children who enter schools with socioeconomic, physical, and cultural handicaps more often than not have school records showing cumulative retardation and maladjustment. General aid to education may leave the educationally handicapped child in the same or in a relatively more disadvantaged position."

NEED TO IDENTIFY CHILDREN POSSESSING SPECIAL EDUCATIONAL NEEDS

Our review of the LEA's project applications approved by the SEA during fiscal years 1966 through 1969 indicated that certain of its title I projects were designed to meet the general educational needs of Camden's school system rather than specific identified needs of educationally deprived children residing within the project area. We estimate that about $1.2 million of title I funds were expended on these projects during the first 4 years of the LEA's title I program.

We asked the LEA officials whether the LEA had identified the specific children who possessed special educational needs that could be met by the LEA's physical education, communicative instructional facilities, supplemental resource materials, fine arts, and instructional aides projects. The LEA's title I coordinator informed us that the LEA had not identified the specific children with educational needs that could be met by these projects. He explained that the need for these projects was determined on the basis of his belief that all children in Camden's school system were educationally deprived because the school system

--did not have multiethnic textbooks which were considered to be of value to the system;

--did not have a physical education program in its elementary schools;

--had a shortage of audio-visual equipment which, research had shown, helped children learn; and

--lacked supplemental resource materials which, in the opinion of most educators, enable children to learn better.

He expressed the opinion that, because so much of the school district was economically disadvantaged, almost all school children in the project area had a need for the title I projects because they were all educationally deprived in some way.

As a result of the manner in which the LEA determined the need for its title I projects, the services, equipment, and materials were, in several instances, made available to all public school children in certain grade levels, to all public schools, or to all children in all public elementary schools, contrary to the title I program policy of concentrating a variety of special services on those educationally deprived children having the greatest need for such assistance. These instances are briefly described below.

- --Under the specialized physical education project, equipment was purchased and distributed in the initial year of the program and physical education specialists were employed each year to conduct physical education classes for all children in fourth, fifth, and sixth grade classes in all public elementary schools and in six of the nine private elementary schools. The LEA estimated that from 2,800 to 5,600 children participated in this project each year.

- --Under the fine arts project, cultural activities were conducted in the initial year of the program in eight of the nine private elementary schools and in all but two public elementary schools. In subsequent years, teachers in music or in arts and crafts were hired to conduct classes in these areas in six of the nine private elementary schools and in all but two public elementary schools. All children in fine arts classes in these schools were permitted to participate in the project. The LEA estimated that from 12,000 to 16,000 students participated in this project each year.

- --Instructional aides (teacher aides) were provided to all public elementary schools and to five of the nine private elementary schools, on the basis of one per school. The aides performed duties, as assigned, for any teacher in the school to reduce the amount of time teachers had to spend on clerical or noninstructional duties and to make it possible for teachers to give more individual attention to students. The LEA estimated that over 15,000 students benefited from the services of the teacher aides each year.

--Under the communicative instructional facilities project, the LEA, in the initial year of the project, distributed various types of audio-visual equipment to all public elementary and secondary schools in the district and to all private elementary schools. The audio-visual equipment included items, such as slide and movie projectors, copying machines, and television sets. This equipment has been available to all classes in the schools, without restriction. According to an LEA official, almost all children in the school district benefited from the use of the equipment.

--The supplemental resources materials project was designed to purchase and distribute, in the initial year of the project, resource materials, such as encyclopedias, atlases, science kits, globes, language kits, dictionaries, and handbooks. These items were placed on portable carts so that they could be moved from room to room. The carts and the material were distributed to all public elementary and all private elementary schools, where they were available for the use of all children. These materials were utilized by about 17,000 students during the first year of the project, according to an LEA official. We were unable, however, to obtain estimates for subsequent years.

--Part of the corrective reading project included the distribution of multiethnic and cobasal (used for both regular and corrective reading) textbooks in the initial year of the project to all public elementary and all private elementary schools, where they were available for the use of all children. The number of textbooks purchased and distributed was about 70,000.

Although the equipment, materials, and textbooks discussed in the last three examples were distributed in the initial year of the title I program, they were retained by the schools and have been available for use without restriction since that time.

We discussed the operation of these projects with the LEA's title I coordinator, who informed us that he believed that, from an educational viewpoint, there was nothing wrong with the operation of the projects because there was a need for these projects in the school district and that, without the projects, all the children would have been educationally deprived.

We discussed the design and operation of the projects with Office of Education officials, who stated that the projects apparently had been conducted on a "program shortage approach"--a lack of certain activities in the LEA's regular program--rather than for the special educational needs of educationally deprived children. The officials stated also that, because these projects were not designed to correct predetermined special educational needs of the educationally deprived children, the SEA should not have approved the project applications. (The manner in which the SEA administered the title I activities in New Jersey is discussed more fully in ch. 5.) These officials stated further that the projects were conducted in a manner which constituted general aid to both the public and private school systems and which is prohibited under the title I program.

We were subsequently informed by an LEA official that the instructional aides project was discontinued after the 1969 project year and that, beginning with fiscal year 1970, the fine arts project was to be conducted with the LEA's own funds rather than with title I funds. He informed us also that the specialized physical education project was being phased out of the title I program and would be conducted entirely with local funds beginning with fiscal year 1971.

With regard to the supplemental resource materials project and the textbooks distributed under the corrective reading project, we were informed by an LEA official that the LEA considered these projects to be completed upon distribution of the instructional materials. We were informed also that the communicative instructional facilities project was being continued under title I but that title I funds were being used principally for the salary of the person hired to supervise the LEA's audio-visual program.

TITLE I FUNDS USED TO OBTAIN RELOCATABLE CLASSROOMS AND STAFF FOR REGULAR SCHOOL PROGRAM

The SEA approved a fiscal year 1966 title I project for the LEA to acquire 19 fully equipped relocatable classrooms (temporary buildings) and the related teachers and janitorial personnel, even though the project application contained no indication that the project was designed to meet special educational needs of educationally deprived children as provided under the title I program. Title I funds were used in each year to support a program of regular elementary school instruction in these facilities at a total estimated cost through fiscal year 1969 of approximately $1.2 million including the acquisition cost of the facilities.

The objectives of this project as stated in the application were as follows:

1. To eliminate half-day, 4-hour programs for 600 pupils and restore full-day instructional programs for these pupils.

2. To relieve overcrowded classes in selected disadvantaged areas by reducing average class size. (In this regard, the application stated that it was a desirable goal for elementary classrooms to have an average class size of under 30 children.)

According to LEA officials and school attendance records, 38 classes were placed on half-day sessions at the beginning of the initial year of the title I program. There were no classes on half-day sessions prior to that time. The LEA officials informed us that the classes were placed on half-day sessions so that a more orderly transfer of children could be accomplished by transferring 19 of these classes to the relocatable classrooms when the relocatable classrooms opened. Thus it appears that the half-day sessions, which were to be eliminated by the utilization of the relocatable classrooms, were established in anticipation of the acquisition of such classrooms.

LEA officials informed us that the children in the 19 classes transferred to the relocatable classrooms were being taught regular school curriculum subjects and were not being given specialized instruction either before or after the relocatable classrooms became operational.

The director of Federal assistance programs at the SEA informed us that the LEA's initial application for this project was approved because the responsible SEA official at that time believed that the project's objective of reducing class size met with the title I regulations and guidelines. The director also informed us that, although he did not believe that the LEA should continue to use title I funds to pay for the salaries of teachers and the upkeep of the relocatable classrooms, he believed that, if the SEA refused to allow title I funds to be used to continue the project, the LEA would not be able to assume the cost and would close the relocatable classrooms. In his opinion, this would force the children attending classes in relocatable classrooms to be placed back into the regular classrooms and would overcrowd these classrooms.

In discussing this project with Office of Education officials, we were informed that the SEA should never have approved this project because it was not in accordance with title I regulations. These officials commented that:

1. The objectives, as stated in the application, did not indicate that any predetermined needs of educationally deprived children were to be met.

2. It appeared that two of the objectives--to eliminate half-day programs and to restore full-day instructional programs--were actually aimed at solving a problem which had been created by the LEA in September 1965, in anticipation of receiving title I funds later that school year.

3. The statement in the application that "a desirable goal for elementary classrooms is to have an average class size of 30 children" is a very commendable goal for any school district. However, it does not demonstrate a preidentified need of educationally deprived children.

4. There was no indication that the LEA even tried to show how this project would meet any special educational needs of educationally deprived children.

These officials stated also that providing classroom space had been and still was the responsibility of the LEA and not of the title I program, unless it could be demonstrated that additional classrooms would meet the special needs of educationally deprived children.

Payment of architectural and engineering fee unallowable

The LEA initiated action to retain the services of an architectural and engineering firm as a consultant in obtaining the relocatable classrooms more than 2 months prior to the date of submission of the project application to the SEA. Our review showed that the payments for such services were charged to the title I program. Although no contract or obligating document could be located by the LEA for the services provided by the firm, an LEA official informed us that an obligation in the amount of $15,000 was incurred when the LEA initiated action to retain the firm.

Title I regulations state that title I funds distributed to LEAs shall not be available for use for obligations incurred either prior to the effective date of SEA approval of a project or the date the application was received by the SEA in substantially approvable form. Since the LEA obligated funds for the architectural and engineering services more than 2 months prior to either of the above-stated dates, payment with title I funds was not allowable.

SEA officials informed us that, although the payment of the $15,000 fee was in direct conflict with the regulations, they planned no action to recover the funds because the services of the firm were apparently necessary to get the relocatable classroom project started. Office of Education officials, however, stated that payment of the architectural and engineering fee was not in accordance with the applicable regulations and should never have been approved by the SEA.

NEED TO INCLUDE PRIVATE SCHOOL OFFICIALS IN PROGRAM PLANNING

Title I of the Elementary and Secondary Education Act provides that, to the extent consistent with the number of educationally deprived children in the school district of the LEA that are enrolled in private elementary and secondary schools, an LEA must provide special educational services and arrangements, under its title I program, in which such children can participate.

We noted that the LEA, in its planning and design of title I projects, did not consult with private school officials even though private school children were to participate in the projects. Office of Education guidelines point out that, before developing projects, it would be advisable for the LEA to consult with private school officials to determine the special needs of educationally deprived children in private schools so that such needs may be provided for in the project plan. Title I regulations issued subsequent to the guidelines require that the needs of educationally deprived children enrolled in private schools, the number of such children who will participate in the title I program, and the types of special educational services to be provided for them, shall be determined after consultation with persons knowledgeable of the needs of these private school children.

We were informed by the LEA's title I coordinator that he interpreted the title I legislation to mean that the LEA was to develop projects for public schools and offer them to the private schools. Therefore, without ever determining the needs of educationally deprived children in the private schools, the LEA designed projects to satisfy the needs of the public schools and asked the private school officials if they wished to have their schools participate in these projects.

A private school system official informed us that he received an allocation of services, equipment, and materials from the LEA for those projects in which he desired children enrolled in his school system to participate. This allocation was based on the percentage of children from low-income families attending the private school system.

In discussing with SEA officials the manner in which the LEA provided for the participation of private school children in the title I program, we were informed by the SEA director of Federal assistance programs that the SEA believed that private school officials should be involved in the planning of title I projects and the conduct of the title I program. He stated that the SEA believed, if it were necessary to design different projects to meet the needs of private school children, then such projects should be designed.

The SEA director stated further that, as a result of a recent SEA review of the Camden LEA, the SEA had informed the LEA that private school officials must be (1) included in the assessment of the special needs of educationally deprived children enrolled in private schools and (2) actively involved in the planning of projects to be conducted in private schools.

Implementation of these directives by the LEA should, in our opinion, result in better determinations of the special needs of educationally deprived children enrolled in private schools and in the design of projects to better satisfy these needs.

CONCLUSION

Although large numbers of children participated in the title I projects conducted in Camden, the LEA's actions in designing and operating certain projects on the basis that the school system in general lacked particular facilities, services, equipment, and materials were contrary to the title I program objective that projects should be designed and conducted for the benefit of those educationally deprived children in the project area who had the greatest need for educational assistance.

RECOMMENDATIONS TO THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

In view of the Camden LEA's responsibility to provide classroom space, services, equipment, and materials for general classroom instruction from other than title I funds, we recommend that the Secretary review the facts relating to the seven title I projects discussed in this chapter and, to the extent warranted, effect recoveries or make appropriate adjustments for the title I funds deemed to have been expended in a manner not consistent with the objectives or provisions of title I of the Elementary and Secondary Education Act.

We recommend also that the Secretary emphasize to the New Jersey SEA the importance of requiring LEAs, prior to SEA approval of project applications, to identify the special needs of educationally deprived children--including those in private schools--and design projects which will have reasonable promise of meeting such needs.

Since title I projects in other States may also have included features which constitute general aid to the local school system and which are contrary to the objectives of the title I program, we recommend further that the Secretary emphasize to all SEAs the nonavailability of title I funds to support projects designed to meet general educational needs of the local school systems, because the funds are intended for specifically identified needs of educationally deprived children residing in title I project areas.

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The Assistant Secretary stated that the Department concurred in our recommendations. He stated also that, with respect to the particular projects of the Camden LEA wherein there was evidence of the use of title I funds for general educational purposes, the Office of Education, in conjunction with SEA officials, would conduct a thorough review of project expenditures, including the funds previously expended for the costs of staffing and operating the 19 relocatable classrooms, and would effect prompt recovery or adjustment of all amounts found to have been expended for purposes or in a manner inconsistent with title I objectives or regulations. Furthermore, the Office of Education would instruct the New Jersey SEA to effect recovery of $15,000 for payments of architectural fees obligated prior to the date of project submission as this sum was not an allowable charge to the title I program.

The Assistant Secretary stated also that the Office of Education would emphasize, in a letter to the New Jersey commissioner of education, the clear need for adoption at both the LEA and SEA levels, of more effective measures to ensure identifications of the special needs of educationally deprived children in both public and nonpublic schools and to limit title I project design and approval to projects offering reasonable promise of success in meeting those special needs. He stated further that the letter would instruct the New Jersey commissioner to ensure that all LEAs, including Camden, were made aware of the appropriate provisions of the regulations regarding the use of title I funds and to have steps taken to provide for an adequate before-the-fact assessment of the special needs of educationally deprived children attending private schools.

The Assistant Secretary also stated that a general revision of the title I regulations was being drafted. The revision will give particular attention to strengthening and clarifying those regulatory sections dealing with the requirements that title I funds be used exclusively for project activities specifically designed to serve the clearly identified special needs of educationally disadvantaged children in title I project areas.

IX. RELIEF

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IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

LINDA SANCHEZ, et al.,)
Plaintiffs,) No. C-70 1633
vs.) FINAL JUDGMENT
MAX RAFFERTY, et al.,)
Defendants.

Defendants MAX RAFFERTY, SAN JOSE UNIFIED SCHOOL DISTRICT, CHARLES KNIGHT, District Superintendent, NEIL H. GEIER, JOHN F. HOPKINS, EDWIN D. JONES, JR., MARY K. McCREATH, and DONALD L. RAIMONDI, Members of the Board of Education of the San Jose Unified School District, having been duly served with copies of the Summons and Complaint of the within action, and;

Plaintiffs appearing through their attorneys, STEPHEN MANLEY, GRACE M. KUBOTA, WILLIAM DAWSON, JOEL G. SCHWARTZ, and JAMES N. ONO, and said defendant MAX RAFFERTY, appearing through his attorney, RICHARD L. MAYERS, and defendants SAN JOSE UNIFIED SCHOOL DISTRICT, CHARLES KNIGHT, NEIL H. GEIER, JOHN F. HOPKINS, EDWIN D. JONES, JR., MARY K. McCREATH, and DONALD

L. RAIMONDI, appearing through their attorneys, WILLIAM M. SIEGEL and MAURICE HILL, and;

It appearing to the Court that the parties hereto, by their respective attorneys, have stipulated and consented to the entering of this Final Judgment without the taking of proof and without trial and adjudication of any fact or law herein and without this Final Judgment constituting evidence or admission by said defendants regarding any issue of fact alleged in said complaint, and;

The Court having considered the matter and good cause appearing therefor;

NOW, THEREFORE, IT IS HEREBY DECLARED AND ORDERED that:

1. That 20 U.S.C. 241(a) (hereinafter Title I), and the regulations, guidelines, and program guides promulgated pursuant thereto, provides that the Title I program was planned as an integral part of a comprehensive compensatory educational program involving the coordinated use of resources from other programs and agencies. (ESEA Title I Program Guide N. 44). To carry out effectively the intent of these criteria, each Title I applicant must have a local advisory committee which is to be involved in the planning, operation, and appraisal of a comprehensive compensatory educational program. (ESEA Title I Program Guide No. 46). The local advisory committee should be composed of at least Fifty percent (50%) of parents of disadvantaged children attending schools serving the area where projects will be conducted, representatives of the poor, and representatives of other neighborhood based organizations, in addition to school staff members. The proposed activities or services for parents to be provided at the school or neighborhood level should bring about a high degree of participation by the parents of disadvantaged children and community representatives in making decisions regarding the expansion and

improvement of educational programs (including pre-school programs) which contribute particularly to meeting the special educational needs of educationally deprived children through the expenditure of Title I funds.

2a. That the above defendant School District shall: Enter into a contract with an agency that is responsive to that community comprised of parents of disadvantaged children and community representatives to effect meaningful parent and community participation in the planning, operation, and appraisal of all Title I programs of defendant school district pursuant to 20 U.S.C. 241(a) and the regulations, guidelines, and program guides promulgated pursuant thereto.

b. Do all things necessary to implement the aforesaid contract and any other contract to the end that parents of disadvantaged children and community representatives shall have meaningful participation in the planning, operation, and appraisal of all future Title I projects of said defendant school district pursuant to 20 U.S.C. Section 241(a). Said meaningful participation shall include, but not be limited to:

(1) That said advisory committee shall be composed of a least Seventy-five percent (75%) of parents of disadvantaged children and community representatives; provided, however that a parent or community representative who is also an employee of the district shall be counted as a person representing the district. Said advisory committee shall participate in the policy making over all Title I programs within defendant school district. The governing board shall retain final authority in approving Title I programs.

(ii) No policy decisions shall be made unless Fifty-one percent (51%) of those members present and voting shall be parents of disadvantaged children and/or community representatives. Provided, however, that if the laws, regulations, guidelines and program guides by and through 20 U.S.C. 241(a) shall in the future require a greater percentage of participation by the aforementioned in the advisory committee the percentage figure shall be increased accordingly.

(iii) Defendant school district, its employees, and agents shall provide comprehensive information regarding the Title I project in said defendant school district and specifically provide appropriate educational and training programs for the members of the advisory committee to achieve the foregoing.

(iv) All meetings shall be conducted in English and Spanish provided that there are members of the advisory committee who indicate a preference for the Spanish language;

(v) Said members of the advisory committee shall be permitted and encouraged to make periodic visits to target schools within defendant school district; and further, shall be permitted and encouraged to discuss the Title I project with teachers, counsellors and administrators.

3. That the above defendant school district shall cause to be made an annual audit of the financial accounts of the Title I project administered and operated by said defendent school district. Said audit shall commence with the fiscal year 1970-71. Further, said audit shall be made independently of the audit of the general financial accounts of the district, and shall be made available to the advisory committee for review.

4. An annual evaluation shall be prepared by the members of the advisory committee and submitted to defendant MAX RAFFERTY, Superintendent of Public Instruction of the State of California and to the United States Commission of Education, and their successors. Defendant shall in no way participate in the evaluation other than to provide information at the

request of the advisory committee. Said parent advisory committee shall have the right to seek whatever outside consultive services they deem appropriate.

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE
NORTHERN DIVISION

ANNIE T. COLPITTS, et al.]
]
Plaintiffs]
]
v.] Civil Action No. 1838
]
ELLIOT L. RICHARDSON, et al.]
] **STIPULATION**
Defendants]

It is hereby stipulated and agreed by and between Francis A. Brown, Esquire, attorney for Calais School Committee, Eunice Churchill, Alfred Joseph, Greta May Johnson and Ozias H. Bridgham, and George S. Johnson, attorney for the plaintiffs, as follows:

1. That none of the below mentioned stipulations shall be, or be considered, evidence of any admission or adjudication that such defendant has violated or is now violating any laws, regulations, guidelines, contracts or assurances.

2. That the School Committee or Superintendent shall compile a list of Title I eligible children including an assessment of their respective needs and deficiencies. Participation in any Title I program shall be limited to these Title I eligible children.

   If all eligible children cannot be served, priority shall be given to those children who are handicapped or whose needs for special educational assistance result from poverty, neglect, delinquency, or cultural or linguistic isolation from the community at large.

   The School Committee or Superintendent shall promulgate and publish specific standards for the implementation of the above.

3. That teacher Aides, paid from Title I funds, shall be assigned only tasks directly related to Title I eligible children, provided that, if such Aides perform tasks which free teachers to devote additional time to students, then such freed time shall be spent with Title I children only. The Superintendent or School Committee shall promulgate and enforce an administrative rule requiring compliance with the above, and provide for the keeping of appropriate records demonstrating such compliance.

4. That purchases of equipment shall be limited to the minimum which is demonstrably essential to implement lawful Title I activities and services.

5. That all approved and implemented Title I programs shall provide compensatory educational activities and services for Title I eligible children. Federal funds made available under Title I shall be so used as to supplement and increase the level of funds that would, in the absence of such funds, be made available from non-federal sources for the education of pupils participating in Title I programs and projects.

In no event may eligible Title I children be excluded from activities and services made available from non-federal sources by virtue of their participation in Title I activities and services.

6. That there shall be an annual evaluation and audit of the Calais Title I programs and personnel, which shall be authorized and funded by the School Committee or Superintendent. Said evaluation and audit shall be conducted by an independent evaluator or auditor on a contractual basis, and said evaluator or auditor shall not be an employee of any federal, state or local public agency. The Parent Advisory Committee must concur in the choice of an evaluator or auditor and the method of evaluation or audit.

Title I project applications submitted by the Calais schools shall specify specific educational goals and appropriate objective measurement for ascertaining whether those goals have been attained.

The cost of any such evaluation and audit shall be reasonable, and shall meet with State and Federal approval.

7. That the Superintendent or School Committee will ensure that all Title I programs have been planned, developed and evaluated, and will be operated, in consultation with, and with the involvement of, parents of Title I eligible children.

To carry out this obligation, there shall be established a Title I Parent Advisory Committee for the Calais school district.

Said committee shall consist of members elected by parents of Title I eligible children, and no fewer than 3/4 of said members shall be parents of Title I eligible children, who are not employed by the Calais School Committee. Two members shall be appointed by the Superintendent. Beginning with the school year 1971-72, selection of the said committee shall take place by October 15 of each year. Members of the committee shall serve for one year terms and be eligible for re-election. The Committee shall meet at least monthly, all meetings to be public. The committee shall give appropriate notice of any meetings, nominations, elections and other relevant matters by mailing said notice to committee members and parents of Title I eligible children, and by publishing said notice in a local newspaper.

8. That the committee shall have the power to adopt by-laws and to elect officers, provided that no member appointed by the Superintendent shall be eligible to serve as an officer. A list of committee members and officers shall be published in a local newspaper by November 15 of each year.

Members of the committee shall be permitted and encouraged to make periodic visits to participating schools, and shall be permitted and encouraged to discuss the Title I project with teachers, aides and administrators.

The committee shall be entitled, within one month of its selection, to all relevant Title I information, including copies, provided free of charge, of the following:

(a.) all past and present Title I applications, as amended;

(b.) the names and addresses of parents of eligible Title I children irrespective of whether said children are actually participating in approved Title I programs;

(c.) all complaints concerning past and present Title I programs;

(d.) all evaluations and equipment inventories of the Title I programs;

(e.) applicable federal, state and local Title I rules, regulations and guidelines;

(f.) other pertinent files, documents and records.

The committee shall establish a training program to familiarize itself with the Title I law, regulations, and guidelines, and with the operation of Title I programs and services in Calais schools. The committee may retain consultants of its choice.

The committee may request and the Superintendent or School Committee shall approve the allocation of reasonable amounts of Title I funds for mailing, meeting expenses, training, technical assistance and speakers.

9. That the Title I Parent Advisory Committee shall be empowered to perform the following functions:

(a.) supply information concerning the views of parents and children about unmet educational needs in the Title I project areas and establish priorities among these needs;

(b.) recommend a general plan for the concentration of funds in specific schools and grade levels;

(c.) participate in the development of proposals which are particularly adapted to bridging the gap between the needs of the pupils and the curriculum of the school;

(d.) make written concurring or dissenting comments to be forwarded with the application;

(e.) hear complaints about the program and make recommendations for its improvement;

(f.) act as a hearing committee for suggestions to improve the compensatory educational program;

(g.) conduct an annual evaluation of the Title I programs and services and submit said evaluation to the Superintendent, the State of Maine Commissioner of Education and the United States Commissioner of Education;

(h.) provide suggestions on improving Title I programs and services in operation;

(i.) submit written proposals to the Superintendent for the expenditure of Title I funds;

(j.) participate in the implementation of Title I programs and services;

(k.) promote the further involvement of parents in the educational services provided under Title I.

10. That the committee shall offer written recommendations concerning the Title I project to the Superintendent at least 90 days before the project application is submitted to the State for approval. The Superintendent shall respond in writing to those recommendations at least 60 days before such submission and the Superintendent shall submit to the committee the completed Title I project application no later than 60 days before such submission.

11. That the Superintendent or School Committee shall make available for inspection or, upon request and at a reasonable charge, provide an interested party with a copy of the following documents:

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(a.) current and past Title I project applications;

(b.) all documents and records relating to the planning, development, operation, and evaluation of Title I programs;

(c.) other documents and records, whether prepared for Title I specifically or not, containing information necessary for the comprehensive planning or evaluation of the compensatory education program.

12. That the School Committee and Superintendent shall comply with all applicable Title I laws, regulations, guidelines, contracts and assurances.

→ 13. That this action be dismissed without prejudice, provided nevertheless that the Plaintiffs may apply to this Honorable Court for such appropriate further relief as they may hereafter deem necessary.

DATED: June 21, 1971.

Witnessed by:

Francis A. Brown

Francis A. Brown

George S. Johnson

George S. Johnson

X. COMMUNITY PARTICIPATION

X. COMMUNITY PARTICIPATION

I. The October 14, 1971 regulations on parent participation made final the proposed regulations of the previous April. Parent councils are to be required of all LEA's; parents of eligible children will constitute more than a simple majority of the council; the council will have broad rights of access to information and participation in all phases of the program.

As the comment makes clear, OE neither requires nor prohibits democratic elections to determine council membership. The Massachusetts Guidelines are a good example of statewide regulations which local people can push for.

The Houston, Texas welfare rights organization proposal gives an example of local efforts to secure parent participation. The Providence, Rhode Island Title I application excerpt indicates at least one kind of PAC program which can be sought.

Parent Involvement. 45 C.F.R. § 116.17(o)

> (o) (1) Parental involvement at the local level is deemed to be an important means of increasing the effectiveness of programs under title I of the Act. Each application of a local educational agency (other than a State agency directly responsible for providing free public education for handicapped children or for children in institutions for neglected and delinquent children) for assistance under that title, therefore, (i) shall describe how parents of the children to be served were consulted and involved in the planning of the project and (ii) shall set forth specific plans for continuing the involvement of such parents in the further planning and in the development and operation of the project.
>
> (2) Each local educational agency shall, prior to the submission of an application for fiscal year 1972 and any succeeding fiscal year, establish a council in which parents (not employed by the local educational agency) of educationally deprived children residing in attendance areas which are to be served by the project, constitute more than a simple majority, or designate for that purpose an existing organized group in which such parents will constitutue more than a simple majority, and shall include in its application sufficient information to enable the State educational agency to make the following determinations:

(i) That the local educational agency has taken appropriate measures to insure the selection of parents to the parent council who are representative (a) of the children eligible to be served (including such children enrolled in private schools) and (b) of the attendance areas to be included in the title I program of such agency;

(ii) That each member of the council has been furnished free of charge copies of title I of the Act, the Federal regulations, guidelines, and the local education agency's current application; and that such other information as may be needed for the effective involvement of the council in the planning, development, operation, and evaluation of projects under said title I (including prior applications for title I projects and evaluations thereof) will also be made available to the council:

(iii) That the local educational agency has provided the parent council with the agency's plans for future title I projects and programs, together with a description of the process of planning and developing those projects and programs, and the projected times at which each stage of the process will start and be completed;

(iv) That the parent council has had an adequate opportunity to consider the information available concerning the special educational needs of the educationally deprived children residing in the project areas, and the various programs available to meet those needs, and to make recommendations concerning those needs which should be addressed through the title I program and similar programs;

(v) That the parent council has had an opportunity to review evaluations of prior title I programs and has been informed of the performance criteria by which the proposed program is to be evaluated;

(vi) That the title I program in each project area includes specific provisions for informing and consulting with parents concerning the services to be provided for their children under title I of the Act and the ways in which such parents can assist their children in realizing the benefits those services are intended to provide;

(vii) That the local educational agency has adequate procedures to insure prompt response to complaints and suggestions from parents and parent council;

(viii) That all parents of children to be served have had an opportunity to present their views concerning the application to the appropriate school personnel, and that the parent council has had an opportunity to submit comments to the state educational agency concerning the application at the time it is submitted, which comments the State educational agency shall consider in determining whether or not the application shall be approved.

(3) The State educational agency may establish such additional rules and procedures, not inconsistent with the provisions of this section, as may be reasonably necessary to insure the involvment of parents and the proper organization and functioning of parent councils.

Comment
(by Office of Education)

2. Parental involvement. Comments on the rule on parental involvement reflect two opposing points of view. One groups of commenters requested that requirements be added for the election of parent councils, for councils to be formed at each title I school, for representation on the council from all eligible areas, and for a requirement that the State educational agency respond specifically to any objection raised by the parent council to a proposed project. Although those suggestions were not adopted, a few clarifying remarks are in order concerning the rule that has been adopted:

a. Nothing in the regulation precludes the election of parent councils; however, the legislative history of the parental involvement provision indicates that such elections should not be mandated from the Federal level.

b. There is no barrier in the regulation to the inclusion on parent councils of parents from attendance areas eligible but not expected to receive title I services, provided parents from the areas to be included in the project "constitute more than a simple majority."

c. The present regulation sufficiently indicates that State educational agencies are required to respond to objections which are raised by the parent council to proposed projects.

Another group of commenters found the requirements concerning the parent council to be too detailed and in some cases inappropriate for their communitites. The regulation is designed to give each local educational agency sufficient flexibility to establish a parent council that is appropriate for its school district and to assure that the council has the information and opportunities it needs to be effective. Many suggestions for additional requirements in the regulation were rejected because it was felt that such provisions would reduce the amount of flexibility available to local educational agencies. As the proposed change to the rule indicates State educational agencies are free to prescribe additional requirements which are not inconsistent with the regulation.

[REVISED - Jan. 1972]

MASSACHUSETTS DEPARTMENT OF EDUCATION

TITLE I ESEA, GUIDELINES FOR PARENT INVOLVEMENT

All local education agencies applying for funds under Title I ESEA, must comply with the parent involvement guidelines as set forth below.

GUIDELINE I

The local education agency (LEA) shall establish a Title I parent advisory council or councils that represent parents of public and non-public school children residing in eligible school attendance areas which are to receive Title I services. The LEA shall ensure representation from each school receiving Title I services.

(This Guideline now permits all parents in a school receiving Title I services to vote and hold office on a parent advisory council. The parents must still be resident in an eligible school attendance area.)

GUIDELINE II

The LEA shall establish a parent advisory council or councils elected by the parents of public and non-public school children residing in eligible school attendance areas which are to receive Title I services. Parents not employed by the LEA shall constitute more than a simple majority of the membership on the elected council or councils. The LEA shall, in formulating election procedures, involve local organizations which serve educationally disadvantaged children and their families.

(This Guideline now restricts parents employed by the LEA to less than a simple majority of the total council membership. This language is consistent with the new Federal regulations.)

GUIDELINE III

The LEA shall provide parent advisory councils with the means to supply information concerning parents' and children's views about unmet educational needs in Title I project areas, recommend priorities among the children's educational needs and methods of satisfying those needs, and participate in the planning, development, operation and evaluation of Title I programs.

(This Guideline now adds development, operation, and evaluation of programs as part of the participation function of councils. The language is the same as used in Federal regulations.)

GUIDELINE IV

The LEA shall develop and maintain an information,training and technical assistance program for parent advisory council members. Such information shall include copies of official applications, and other accessible government programs for educationally deprived children and such documents and records as are available to the general public, as provided for by Public Law 91-230, Section 110, but not including information relating to the performance of identified children and teachers.

(This Guideline now sets forth the provision that information related to identifying children and teachers shall not be viewed as public information. This language is consistent with the Federal regulations.)

GUIDELINE V

The LEA shall submit a written description of its compliance with these Guidelines as required in the Program Description section of the application for funding. The LEA shall also submit with the application for funding the Parent Involvement Checklist signed by the parent advisory council chairman.

(This Guideline relates the language of written compliance to the application and also adds a Parent Involvement Checklist to be signed by the PAC chairman.)

GUIDELINE VI

If by a vote at a duly constituted meeting the parent advisory council raises doubt to the effectiveness of a Title I proposal or project, the LEA shall provide a hearing for the council within 15 days of receipt of written notice from the council chairman. The LEA or the parent advisory council chairman shall have the right of appeal to the Commissioner of Education if the outcome of the local hearing is unsatisfactory. The Commissioner of Education shall provide a hearing within 15 days. of receipt of written notice from the LEA or the parent advisory council chairman and the decision of the Commissioner or his designee(s) shall be final.

(This Guideline provides more specific language for the grievance procedure and establishes a hearing process at the local level.)

RECOMMENDATIONS

The following recommendations are made to LEAs to assist them in implementing the Guidelines.

GUIDELINE I (Recommendations)

A. An LEA that has up to 10 eligible schools receiving Title I services should establish at least one parent advisory council.

B. An LEA with more than 10 eligible schools receiving Title I services should establish two or more advisory councils to ensure the representativeness outlined in Guideline I.

C. An LEA that establishes more than one Title I parent advisory council should form, also, a systemwide parent advisory council elected from among and by the members of the individual parent advisory councils.

GUIDELINE II (Recommendation)

In order to provide continuity on parent councils, no more than half of the offices should be vacated each year. A term of office should be for two years.

GUIDELINE III (Recommendation)

The LEA should solicite recommendations from the PAC as described in Guideline III at least 60 days before the SEA deadline for submitting funding applications. The LEA should then respond in writing to the recommendations within 30 days. The completed Title I application should be forwarded to the PAC for final review 15 days before submitting it to the SEA.

GUIDELINE IV (Recommendations)

A. The LEA should inform parent advisory councils of significant changes in the Title I funding applications.

B. The LEA should assist the parent advisory council in obtaining information from school personnel and community organizations.

C. The LEA should reimburse parent advisory council members for actual expenses allowable and budgeted under the approved Title I application, and incurred in carrying out their responsibilities or as a result of their services.

D. The LEA should provide for reasonable access to Title I schools by members of parent advisory councils and for appropriate school offices available for consultation with parent members at times and places mutually convenient for parents and school officials.

GUIDELINE VI Recommendation

The LEA should process grievances from individual parents for organizations through the PAC.

The Commonwealth of Massachusetts
Department of Education
182 Tremont Street
Boston, 02111

NEIL V. SULLIVAN
COMMISSIONER OF EDUCATION

REVISED DRAFT
COPY

October 23, 1970

TO: Superintendent of Schools and Title I, ESEA Directors

FROM: Neil V. Sullivan, Commissioner of Education

SUBJECT: Title I, ESEA Guidelines for Parent Involvement

These guidelines are presented so that local school districts will understand the steps to be taken in meeting the criteria for parent involvement as part of an application for Title I funding.

The format has two sections. The first, underlined and identified by Roman numerals, consists of six basic guidelines. The second section "Recommendations," suggests acceptable procedures for implementing guidelines.

Current Title I Regulations, Section 116.18 (f), U. S. Office of Education (USOE) Code of Federal Regulations Title 45, read:

> "Each local educational agency shall provide for the maximum practical involvement of parents of educationally deprived children in the area to be served in the planning, development, operation, and appraisal of projects, including their representation on advisory committees which may be established for local Title I programs."

Public Law 91-230, Section 415, "Parental Involvement and Dissemination," as enacted by the 91st U. S. Congress, provides that project applications shall:

> "(1) Set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with, and with the involvement of, parents of the children to be served by such programs and projects;

"(2) Be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

"(3) Set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public."

The Massachusetts Department of Education has, therefore, promulgated the following requirements, effective immediately, for complying with the above policies and procedures for parent involvement.

If any provisions of these Guidelines shall in any manner conflict with or contravene any present or future Federal law or statute of the Commonwealth of Massachusetts or the rules and regulations promulgated pursuant thereto, such provisions shall be considered null and void and shall not be binding; but in such event, the remaining provisions of the Guidelines shall remain in full force and effect.

Massachusetts Department of Education

Title I, ESEA, Guidelines for Parent Involvement

GUIDELINE I - The local education agency (LEA) shall establish a Title I parent advisory council or councils that represent parents of public and non-public school children receiving Title I services and living in eligible attendance areas as defined by Title I Regulations. In determining the size and number of parent advisory councils the LEA shall ensure parent representation from each school receiving Title I services.

Recommendations: To implement the above guideline, the state education agency (SEA) recommends the following:

A. An LEA that has up to 10 eligible schools receiving Title I services should establish at least one parent advisory council.

B. An LEA with more than 10 eligible schools receiving Title I services should establish two or more advisory councils to ensure the representativeness outlined in the above GUIDELINE I.

C. An LEA that establishes more than one Title I parent advisory council should form, also, a systemwide parent advisory council composed of representatives from all the Title I parent advisory councils in the LEA jurisdiction.

D. Parent advisory councils should be established within one month after the effective date of these guidelines, and by October 1 of each year thereafter.

GUIDELINE II - The local education agency shall provide for a parent advisory council (councils) elected by the parents of public and non-public school children receiving Title I services and living in eligible attendance areas, as identified in GUIDELINE I. The LEA shall, in formulating elective procedures, involve local organizations which serve educationally disadvantaged children and their families.

Recommendations: To implement the above guidelines, the SEA recommends the following:

A. All parent advisory council members should be elected for a term of not more than two years. In parent advisory council elections held during the month following the effective date of these guidelines, 50 percent of each council's membership should be elected for a one-year term to initiate a procedure wherein half the number of members will change each year, thus providing continuity.

B. If the LEA's parent advisory council plan includes a systemwide parent advisory council, the latter's membership should be elected from among and by the members of its component parent advisory councils.

GUIDELINE III - The LEA shall provide parent advisory councils with the means to supply information concerning parents' and children's views about unmet educational needs in Title I project areas, recommend priorities among the children's educational needs and methods of satisfying those needs, and participate in the planning and appraisal of Title I programs.

Recommendations: To implement the above guideline, the SEA recommends the following:

A. The parent advisory council should offer recommendations to the LEA, as described in the above GUIDELINE III, at least 120 days before the SEA deadline for submitting school-year funding applications. The LEA should, then, respond in writing within a month, forwarding the completed Title I funding application to the parent advisory council 30 days before submitting it to the SEA.

B. The parent advisory council should offer recommendations to the LEA, as described in the above GUIDELINE III, at least 60 days before the SEA deadline for submitting summer-funding applications. The LEA should, then, respond in writing within two weeks, forwarding the completed Title I summer funding application to the parent advisory council 15 days before submitting it to the SEA.

C. The parent advisory council should provide written comments on the proposed Title I program at least 5 days prior to the LEA's submission of the project application to the SEA.

GUIDELINE IV - The local education agency shall develop and maintain an information, training and technical assistance program for parent advisory council members. Such information shall include copies of official applications, and other accessible government programs for educationally deprived children and such documents and records as are available to the general public, as provided for by Public Law 91-230, Section 110.

Recommendations: To implement the above guideline, the SEA recommends the following:

A. Within 10 working days of the parent advisory council's formation, the LEA should develop an information, training and technical assistance program for council members.

B. The LEA should inform parent advisory councils of significant changes in the Title I funding application.

C. The LEA should assist the parent advisory council in obtaining information from school personnel and community organizations.

D. The LEA should reimburse parent advisory council members for actual expenses allowable and budgeted under the approved Title I application, and incurred in carrying out their responsibilities or as a result of their service.

E. The LEA should provide for reasonable access to Title I schools by members of parent advisory councils and have appropriate school officials available for consultation with the parent members at times and places mutually convenient for parents and school officials.

GUIDELINE V - The local educational agency shall submit a written description of its compliance with these Title I guide lines for parent involvement with each application for a Title I project to be funded after June 30, 1971. Such description shall outline the procedure used to establish parent advisory councils and include assurance that each parent advisory council is representative , describe the LEA's information, training and technical assistance program for parent advisory council members, and explain how the parent advisory council or councils have been involved in planning the proposed project.

GUIDELINE VI - If a parent advisory council's written comments about the completed Title I proposal raise substantial doubt concerning the effectiveness of the project, the LEA and the parent advisory council may be required to furnish additional information before a final determination is made by the SEA. The LEA or the parent advisory council chairman shall have the right of appeal to the Commissioner of Education regarding the implementation of any Guideline cited herein.

HOUSTON

PROPOSAL FOR MEANINGFUL PARENTAL PARTICIPATION IN THE HOUSTON INDEPENDENT SCHOOL DISTRICT'S TITLE I PROGRAM

PRESENTED BY

THE HOUSTON WELFARE RIGHTS ORGANIZATION

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   2. There geographical areas are over-representative.

C. Free information to members......................... 8
   Federal regulations outline the free information which should be given to the MRAC, much of which has not been furnished to the committee.

D. Adequate opportunity to review...................... 8
   The MRAC should be given adequate opportunity to consider future plans and the priority of needs, and to review the prior evaluations. The five days which they were given to approve the 1971 application was hardly adequate.

E. Dissemination of information to all parents.......... 9
   HISD is directed by the federal guidelines to inform and consult with parents concerning the services provided for their children. However, Title I parents are not generally told their children are participating in these programs, much less what the programs offer.

F. Districts response to complaints and suggestions..... 9
   Although the federal regulations state that HISD should have procedures to insure prompt response to complaints and suggestions from parents, no such apparatus exists in HISD. HWRO has had no response to its complaint, July 12, 1971, nor to its school clothing proposal, August 9, 1971.

G. Opportunity to submit comments to TEA................ 10
   Finally, parent councils are suppose to have the opportunity to submit comments to TEA. Since MRAC only had five days to approve the application, there was not sufficient time to draw up such comments, presuming the MRAC knew they had the power to do so.

5. PROPOSAL.. 10

A. Selection... 10
   We strongly feel that election of parents to the Title I parent councils is most urgently needed to make Title I more responsive to the needs of disadvantaged children. We propose that Community Advisory Councils (CAC) for each Title I school be composed of all Title I parents with elected officers. This group will also select a delegate to attend a city wide convention, for the purpose of electing the Parent Advisory Council, the city wide parent council. The delegates from the CACs will select the twelve members of the PAC. A maximum of 30% of the PAC can be non-Title I parents.

B. Operation... 14
   Important for the successful input of the parent councils will be:
   1. Regularly scheduled meetings;
   2. Acquisition of Title I materials needed for review;
   3. Adequate time for approval of the new application (five weeks);
   4. Funds to hire a staff person;
   5. Allowance to PAC members for attendance at council meetings.

PROPOSAL FOR MEANINGFUL PARENTAL PARTICIPATION IN THE HOUSTON INDEPENDENT SCHOOL DISTRICT'S TITLE I PROGRAM
PRESENTED BY
THE HOUSTON WELFARE RIGHTS ORGANIZATION
November, 1971

I. AUTHORS & DATE

This proposal is presented by the Houston Welfare Rights Organization (HWRO) on December 1971, to Dr. George Oser, President of the board of the Houston Independent School District (HISD). It is presented by:

Mary Davis--President of HWRO & Chairmen of Third Ward Chapter

Lunie Grace--Vice-President of HWRO and Chairman of Settegast Chapter

Dorothy Holmes-Treasurer of HWRO

Essie Kennerson--Chairman of Clayton Homes Chapter

Amparo Ayala--Chairman of Oxford Place Chapter

Hallie Webb--Chairman of Studewood Chapter

Maxine Shelton--Acting Chairman of Allen Parkway Chapter

The Senior Citizens Chapter.

All communications concerning this proposal should be directed to: Mrs. Mary Lewis, 1919 Runnells, Apt. 282, Houston, Texas 77003 (224-0149); or the HWRO office, 618 Prairie Street, No. 3, Houston, Texas 77002 (224-3062). (For legal services, assisted by Diane Jones + Jeff Skarda, Harris County Legal Assistance, 618 Prairie, No. 3, Houston, Texas 77002 (713) 224-3062)

II. INTRODUCTION

We, the members of the Houston Welfare Rights Organization (HRWO), are concerned with the operation of the Title I program in the Houston Independent School District (HISD), because we want to see that poor children of the community get the things they need to have a successful school experience. We feel that the only sure way for these needs to be identified and met is through meaningful participation by the parents of the children in the Title I program. The federal government has recognized parental participation as a top priority in the administration of Title I programs and we feel HISD should be equally committed to this goal.

The need for parental participation in Title I is based on a desire for improved educational opportunities for those affected by the program. If administrators determine the services to be included in the project or obtain superficial acknowledgements from the parents and children as to its operation, only one portion of the total participants is effectively involved. However, if all identified participants are integrated into the planning and operation of Title I, we can expect a higher rate of involvement and success for the project. Furthermore, parents would bring a different perspective to the program so that any discrepancy between perceived needs by the administrators and actual needs of the students might be eliminated through parent assistance.

Additionally, by consistent involvement of parents in Title I, we would hope to see benefits accrue to the individuals who take part. This would be in the form of increased personal awareness, an awareness of the role of educational institutions in the community, and a new understanding of the individual's role in developing strengths of the community.

III. HISD'S PARENTAL PARTICIPATION

This is the second time we, HWRO, have approached you regarding parental participation in the Title I program. On July 12,1971, we presented you with an explanation of its need. (See appendix). Our arguments were based on our three-month study which revealed a failure of communication and mispriorities. Since that day, HISD has instituted a district-wide committee whose responsibilities in part are overseeing the Title I program.

The district-wide committee is called the Multi-Racial Advisory Committee (MRAC). It is a fifteen member board appointed by administrators. Five members are black, five Mexican-American, and five Anglo. As can be seen, the primary criteria for appointment is racial equality. Presumably this is to satisfy the Title 45--emergency desegregation aid--funding requirement.

We feel that MRAC has not yet met the Office of Education standards for Title I parental participation and has not meaningfully involved parents in the program. It does not represent Title I children nor Title I communities. Even presuming the desire, the administrators have not given MRAC the bare essentials necessary and the opportunity for meaningful involvement.

A. MRAC does not represent Title I Students.

L. All of the members of MRAC and also the year old Community Advisory Committees (CAC) in each school are appointed by administration officials rather than by the parents themselves. One predictable result of such a method of selection is that the appointees are less inclined to criticize, for they sit at the discretion of the administrators. This has already happened with

MRAC. One of the staff administrators reported to us that one of his selection criteria was that the candidate for appointment "not have a bone to grind."

2. One member of MRAC is employed by HISD. Therefore this person's representation involves a conflict of interest and cannot be counted as eligible under the regulations (45 C.F.R. §116.17.0.1; 36 Fed. Reg. 20015-20016 (October 14, 1971).

3. Forty-two and eight-tenths per cent (42.8%) of the eligible MRAC members have substantial incomes or are businessmen. No low-income people have designated them as representatives of their interests.

B. MRAC does not represent Title I communities.

1. Twenty-eight and five-tenths per cent (28.5%) of the eligible members do not have homes in Title I communities.

2. For the addresses listed as in the Title I areas, fifty per cent (50%) of the MRAC members are paired with another member who lives on the same street and within seven blocks of each other. By such close proximity, the three geographical areas have a disproportionate representation on the committee. It should be noted again that this would be acceptable if a democratic method chose such representatives.

3. Finally, there is no established procedure for making MRAC members responsible to or merely in communication with the CACs which should deal with the Title I programs in each particular school.

C. In operation MRAC's involvement is not meaningful.

1. The administration charges MRAC with parental participation for Title I, Title 45, and perhaps Model Cities. Therefore,

the committee does not have an adequate chance to work in depth with any program, programs which are not simple nor designed to be complementary.

2. MRAC was not given adequate time to investigate and study the application. On August 6, 1971, they first saw the Title I application. Five days later they were summoned again to approve it. Moreover, in the five day period the MRAC members had to also analyze the Title 45 applications. The Title I application alone numbers hundreds of pages. Five days is hardly adequate time to conduct a thorough review of both programs.

3. During their brief review, administrators provided the MRAC with insufficient information on the rules and regulations of the Title I program. Committee members judged the appropriateness of programs according to the administrator's description, not according to the established guidelines for Title I. Furthermore, they had the difficult task of distinguishing the Title 45 program's purposes.

4. The administration neither made past evaluations of the Title I programs available to the MRAC during the review, nor any comprehensive manner of considering the highest priority needs of the disadvantaged children.

5. MRAC did not have enough time to present proposals of their own to include in the application. As soon as committee approval was gained, the application was sent to the Texas Education Agency. Moreover, parents not on the committee were not permitted to present proposals.

6. There were no hearings on past Title I programs conducted by MRAC, nor on the newly proposed ones. Parents and teachers should have been invited and encouraged to comment on the programs at hearings so that the committee could have heard opinions other

than those held by administrators.

7. The situation was even worse at the CAC level as shown by our letter to you on July 12, 1971. And still there is no regular channel for informing parents of the programs available for their children under Title I. Parents are not regularly told that their children are even participating in a particular Title I program.

8. At the public level, complaints and proposals of parents are still unanswered. Every time we have appeared at your school board meetings, our inquiries are met with silence. Initially, we could not even make appointments with your administrators, but we had to impose on them to be heard.

D. Conclusion

In addition to violating a sense of democratic order, the HISD program of parental participation grossly violates the federal regulations governing Title I: 45 C.F.R. §116.17.0; 36 Fed. Reg. 20015-20016 (October 14, 1971).

IV. FEDERAL REGULATIONS

These regulations were proposed in April, 1971, and were meant to apply for fiscal 1972. We now know that they have been adopted by the Office of Education. Since we have described the problems with the district-wide council in great detail in section III and with the particular school committees in our July 12, letter, we will simply catalog the violations:

A. Parents representative of Title I children

> For the application for fiscal year 1972, the local education agency (LEA) shall establish a council in which parents of Title I children constitute morethan a simple majority. Or the LEA shall designate for that purpose an existing group which meets those requirements. None of the parents of Title I children who sit on the council shall be employed by the local educational agency. The LEA shall

also take appropriate measures to insure the selection of parents to the parent council who are representative of the children eligible to be served. 45 C.F.R. §116.17.2 and 2.i.a; 36 Fed. Reg. 20015-20016 (October 14, 1971).

1. One member of the MRAC and some of the CACs are employees of HISD and are, therefore, ineligible to represent Title I children.

2. Although more than a simple majority are Title I parents, fifty-seven per cent (57%) exactly, they are selected in such a manner not to be representative of the children.

B. Parents representative of Title I communities

The LEA shall also take appropriate measures to insure the selection of parents to the parent council who are representative of the Title I community. 45 C.F.R. § 116.17.0.2.i.b; 36 Fed. Reg 20015-20016 (October 14, 1971).

1. Twenty-eight and five-tenths per cent (28.5%) of the MRAC members do not have homes in the Title I areas and therefore, are not clearly representative of their communities. Two members out of the four in this category work in a Title I area, but reside outside the Title I area.

2. Of the addresses stated in the HISD federal program list of eligible MRAC members, we have noticed other instances of inequitable representation as partially described above in Section III B:

a. Fourteen and three-tenths per cent (14.3%) of the addresses given are of places outside of the Title I communities.

b. Fifty per cent (50%) of the addresses given are of members who live or work within at least seven blocks of another member. Two members live next to each other. Another two are paired in that they live within one block of each other. Another three have addresses on the same street for residence or for work which are all within seven blocks of each other.

c. Thirty-five and seven-tenths (35.7%) of the addresses given are of members who live in the other Title I communities. Therefore, the areas represented by these members are underrepresented while the three other areas above are overly represented.

C. Free information to members

> Each member of the council must be furnished without charge copies of Title I statute, the federal regulations, guidelines and criteria, State Title I regulations and guidelines, and the LEA's current application as well as such other information as shall be needed including prior applications and evaluations. 45 C.F.R. §116.17.0.2.ii; 35 Fed. Reg. 20015-20016 (October 14, 1971).

The ARAC members have not been furnished all of the above information. At least some do not know that it is available to them. Of course, the CACs in each school have never been routinely furnished this information, nor have they received it on request. Our Welfare Rights sisters who are on CACs had to approach the superintendent before being furnished even part of the requested information. Before they had made repeated futile requests to the federal programs administrator. At the present time another request for information is before the Title I administrator since October 4, 1971.

D. Adequate opportunity to consider future plans, the priority of needs, and to review the prior evaluations.

> The LEA must provide the parent council with the agency's plans for future Title I programs, together with a description of the process of planning and developing these programs as well as the projected schedule. The LEA also must give the parent council adequate opportunity to examine the information available concerning the special educational needs

> of the educationally deprived children and to make recommendations concerning those needs. Finally the parent council must have an adequate opportunity to review evaluations of prior Title I programs together with the performance criteria chosen by the LEA. 45 C.F.R. §116.17.0.2 iii-iv; 36 Fed. Reg. 20015-20016 (October 14, 1971).

Five days was hardly time to read the two applications for Title I and Title 45, much less develop an understanding of the thrust of the Title I program in Houston and evaluate its past performance. Therefore, this requirement was grossly violated.

E. Dissemination of information to all parents

> The Title I program in each project area must include specific provisions for informing and consulting with parents concerning the services provided for their children under Title I and the way in which they may assist their children in realizing the benefits. 45 C.F.R. §116.17.0.vi; 36 Fed. Reg. 20015-20016 (October 14, 1971).

Neither the MRAC nor the CACs are involved in a systematic way to communicate with each other. Nor is there any communication with all the parents. Title I parents are not even told that their children are participating in these programs, much less what the programs offer. Again the violation appears to be characteristically gross.

F. District's response to complaints and suggestions

> The LEA must show that it has adequate procedures to insure prompt response to complaints and suggestions from parents and parent council. 45C.F.R. §116.17.0.2.vii; 36 Fed Reg. 20015-20016 (October 14, 1971).

Neither you the school board nor your administrators have responded at all, and certainly not promptly, to our complaint made on July 12, 1971, at your meeting for more parental participation; nor to our suggested school clothing program, presented at your meeting on August 9, 1971. Indeed you and your administrators have treated the Welfare Rights Organization as if we were children.

G. Opportunity to submit comments to TEA

> The LEA must give the parent council the opportunity to submit comments to the State educational agency concerning the application at the time it is submitted. And the State educational agency must consider these comments in approving the application. 45 C.F.R. §116.17.0.2.viii; 36 Fed. Reg. 20015-20016 (October 14, 1971).

Again five days to read two proposals for two different programs was not adequate opportunity much less to draft and agree on comments. Moreover, the members of MRAC did not even know that they had the power to address comments to TEA.

V. PROPOSAL

As interested parents of Title I children, we present the following proposal for the selection and operation of the Parent Advisory Council and the Community Advisory Councils which will insure meaningful parental participation.

A. Selection

Our proposed plan for the selection of the parent councils is based on the representative-democratic ideal. This ideal suggests that the people directly affected by the operation of Title I should be involved in the decision-making process. Since the goal of Title I is to improve the education and educational opportunities of disadvantaged children, those individuals most directly affected by the program, besides school personnel, are the children and their parents. The parents are not only good guides to the needs of their children, but are, or should be, legitimate decision-makers in the administration of Title I. The parent decision-makers should be able to join with school officials in making a successful Title I program.

Since the Office of Education has recognized the vital role of parent participation for an effective Title I program, it specifically directs the local education agency to demonstrate in their application for funds: "(i)...how parents of the children to be served were consulted and involved in the planning of the project, and (ii) shall set forth specific plans for continuing the involvement of such parents in the further planning and in the development and operation of the project." (45 C.F.R. §216.17.0.1; 36 Fed. Reg. 20015-20016 (October 14, 1971). Certainly, it is clear that the Federal authorities mean for the parents to be participants and decision-makers in the Title I program.

The representative-democratic ideal further suggests that the parent decision-making bodies should be elected and not appointed by school officials. There are two arguments in support of elections for Title I parent councils. First, arbitrary appointment by school administrators is in disregard of the democratic egalitarian principles of this country. Elections would be more in keeping with our usual democratic process. Second, elected parent councils are more likely to bring in new and independent perspectives and ideas for the implementation of Title I. Appointed groups seem only to fulfill the appalling function of "rubber stamping" administration proposals, without regard to parent outlook and innovative addition to the program. Only through elections can there be any confidence that those who serve on the parent councils will represent parent opinion and have the interest in Title I to seek new ways to improve the program.

We propose that two different types of councils be elected to guarantee parent input into the Title I program. The Community Advisory Councils (CAC) will operate in each Title I school while the Parent Advisory Council (PAC) will serve as the district-wide representative body.

1. Community Advisory Councils

The Community Advisory Council (CAC) for each Title I school will consist of parents from the total Title I parent population of the school with elected officers. This demands that all parents be informed of their child's participation in the Title I program and of the benefits available to the child under Title I. HISD does not currently do this. In our investigation, we found that some members of the MRAC did not know what Title I was, what programs operated in the schools under its suspices, or if their children were Title I students. If members of this committee for parent involvmment in Title I are unfamiliar with the program, it is safe to assume that most Title I parents in the district do not know about the program.

To remedy this situation, we recommend that two open meetings for Title I parents be held at each Title I school near the end of September at which time the Title I project will be explained. This will, for the first time, in the Houston Independent School District, assure that adequate information is given to all Title I parents as required by 45 C.F.R. §116. 17.0.2.vi; 36 Fed. Reg. 20015-20016 (October 14, 1971).

The general meetings will require that the schools send mailed notices of each meeting to all parents to explain the purposes of the meetings and of the forthcoming elections for the councils. At the third open meeting, elections should be held for the officer positions of the CAC. These positions should be : president, vice-president, secretary-treasurer. At the same time, a convention delegate and an alternate should be selected for the purpose of electing the district-wide Parent

Advisory Council. Nominations will also be taken and candidates chosen for the Parent Advisory Council.

2. Parent Advisory Council

The district-wide Parent Advisory (PAC) will be the final elected body to aid in Title I decision-making. This group will perform the beneficial functions of coordinating all CAC activities and of acting as the official parent representatives in dealing with the Title I administrators.

The fairest manner in which to select this body is again through elections; this time to be completed by delegates from the CACs to a general convention. It will be the sole function of the convention to elect a twelve member board to act in the advisory capacity. Election of board members will be accomplished by the place system. The twelve places will be proportioned among elementary and secondary school representatives depending on the percentage of elementary and secondary students in the total Title I enrollment. This means for 1971-72, there would be eight (8) representatives for the elementary level and four (4) representatives for the secondary grades.

Candidates will file for offices according to the place positions. Nominees from the CAC or individual Title I parents may be candidates. Individuals whose children are not Title I students may serve on the PAC provided that they are nominated by a CAC and elected by the convention delegates. At no time, however, will more than 30% of the PAC be non-Title I parents.

All candidates will present their qualifications to the general convention in short speeches. Voting will be done by the official delegates with each delegate casting one vote. The officers of PAC shall be elected by the board members.

3. Operation

Once the parent councils are elected, we believe the following items are essential for the successful operation of the councils. We trust that these councils will not be just another sham.

1. Regularly scheduled meetings will be established. The two initial general meetings at all Title I schools should be held during the last weeks of September. The third meeting for the election of CAC officers and convention delegates should be held in October. Thereafter, CAC meetings shall be held at least once monthly, during the first week of the month. The PAC elections should be scheduled two weeks after the election of delegates. The PAC shall then meet during the third week of every month.

2. The agenda for each meeting shall be determined by the officers of each council.

3. Each council member will have a list of all council members for all schools, organized according to school.

4. The councils will be furnished free of charge all necessary Title I documents, e.g., applications, comparability reports, federal guidelines, which they may request for review and evaluation purposes. This is in accordance with 45 C.F.R. §116.17.0.2.ii; 36 Fed. Reg. 20015-20016 (October 14, 1971).

5. Before HISD submits its application for Title I funds to the Texas Education Agency in the spring, the proposed application will be submitted to the councils. The councils will be given five weeks in which to study the application and to make proposals of their own. The recommendations from the

CACs will be directed to the PAC. This body will then meet with the Title I administrators to present all the proposals and evaluations. These suggestions are in keeping with 45 C.F.R. §116.17.0.2(iii)(iv,viii; 36 Fed. Reg. 20015-20016 (October 14, 1971).

6. The PAC will be granted funds to hire a staff person for their own administrative use. This person will be charged with notifying all members of council meetings, with supplying them will all necessary information, and conducting a program to inform all parents how their children can benefit from Title I.

7. PAC members shall be paid an allowance of $7.50 for attendance at council meetings. This is in accordance with Title I regulations (United States Department of Health, Education and Welfare, Office of Education, ESEA Title I Program Guide # 44.5.4 (March 18, 1968). This allowance will serve to insure equal participation by poor parents who might otherwise be unable financially to participate. It is a recognized necessity for boards of poor people in such agencies as Community Action Programs, Model Cities Commissioners and Head Start programs.

VI. BUDGET

A. Budgeted amounts for a year

	Amounts
Staff:	
one staff person for PAC	$8,000.00
Title I counselors for CACs	0.00
meeting allowances for PAC	1,080.00
Education:	
paper and printing	1,000.00
TOTAL FOR YEAR FROM TITLE I	$10,080.00
Facilities:	
one desk	100.00
one file	100.00
appropriate space	500.00
one phone	600.00
miscellanesour	100.00
TOTAL FROM STATE AND LOCAL	$1400.00

B. Budget explanation

1. Staff:

One staff person to serve the PAC and to inform all parents about Title I. Salary is for the year.

Title I counselors will serve the individual school CACs.

2. Facilities:

Figures are roughly estimated. Cost should be borne by state and local funds because of Office of Education, ESEA Title I Program Guide 44.5 and 44.6 (March 13, 1968) since this equipment is not unique nor especially essential. It is also questionable whether Title I money should be used for rental of space.

3. Education:

These are the costs for informing the entire Title I community of the programs their children are involved in or could be.

Providence Title I Proposal

SECTION II--TITLE I ESEA PROGRAM DESCRIPTION

PACT I TRAINING PROJECT

NARRATIVE

1. COMPREHENSIVE PLANNING ACTIVITIES

The parent group is PACT, the Providence Advisory Counsel for Title I. PACT membership is made up of thirty parents and ten professional members, a total of forty members.

2. PARENTAL INVOLVEMENT

The parents taking part in this training program are representative of the children for whom the Title I law is written and for whom the programs are written. All parents and professionals in PACT will participate in this training program. To ensure continuance of this training program, other interested persons (up to 20 in number) will be invited to participate.

3. ANALYSIS OF NEEDS IN ELIGIBLE ATTENDANCE AREAS FOR CURRENT SCHOOL YEAR.

Objective #	A.	Needs
1, 5	1.	Parents need to know how to become involved in the Title I effort.
1, 2, 7	2.	Parents need to learn the Title I law.
8	3.	Parents need to learn about the educational, social, and emotional needs of Title I children.
8	4.	Parents need to learn about child development as pertinent to the programs.
all objectives related	5.	Parents need to learn how to participate in the formulation of Title I programs.
7	6.	Parents need to learn how to communicate with the educational institutions.
7	7.	Parents need to learn the structure and functions of the prevalent educational operation..

Objective #

3, 4, 6 8. Parents need to learn how to evaluate Title I programs, at least insofar as the programs agree with the parents perception of the children's needs.

1 9. Parents need to learn how to involve the community.

B. The priority of needs is as listed above.

4. PRIVATE SCHOOL PARTICIPATION

Parents of children in Title I programs in private schools are eligible to participate in this training program.

5. INSTITUTIONS FOR NEGLECTED AND DELINQUENT

Not applicable

6. DISSEMINATION

The evaluation of this program will be made available to Title I and other school personnel, and as much as possible, attempts will be made to publicize this program through newspapers and other mass media.

7. PROJECT ACTIVITIES--INSTRUCTIONAL AND/OR MAJOR SUPPORTIVE

I. This is a supportive activity.

II. Project Participants

a. A majority of the parents involved in this program have educationally deprived children from the eligible attendance areas.

b. In all, there will be 50 participants in this project, including the participating members of PACT.

III. a. Not applicable

b. Not applicable

c. Thirty training sessions would be held - one evening per week (3 hours)

d. Tentative location is the St. Martin De Porres Center on Cranston Street in Providence.

e. The estimated cost per participant is (see attached budget).

f. Beginning date is September 14, 1971

g. The ending date is June 30, 1971

h. The number of professionals in this training program is ten. PACT will select instructors to be used in this course (see attached budget); these are instructors to be used in this course that the parents feel can be related to effectively and can learn from efficiently. Note: The parents in PACT stand firm in their selection of instructors with concurrence of the Superintendent of schools.

i. This entire program is in-service and pre-service training for parents.

j. This type of program is not available anywhere else in the city of Providence.

8. ACTIVITY CONTENT OUTLINE: attached

9. NARRATIVE SUPPLEMENT: follows Activity Content Outline

10. This is a parent training program written by parents, conceived by parents, for parents, and hopefully implemented by parents. Otherwise, PACT feels that it will not be of optimum value for parents.

PROGRAM GOALS

A. Acquisition of knowledge in the following areas

1. What is the Title I law?
2. History of Title I law.
3. Understanding the community: involvement, population, power structure, institutions, etc.
4. What the needs are of children served by Title I and their families.
5. What is the disadvantaged child?
6. What is an educationally deprived child?
7. What is an environmentally deprived child?
8. How is the community involved with Title I decisions?
9. What is the emotionally deprived child?
10. What is Title I compensating for?

B. Development of the following skills:

1. How to help parents bring their perception of the needs of their children to the planners.
2. How to help parents read and evaluate the proposals that have been written to see if the proposals meet with the parents perception of their childrens needs.
3. How to help parents develop strategies for change, support and approval.
4. How to help parents learn dissemination techniques and sources of public information.
5. How to improve communication skills
6. How to involve the community in Title I programs.
7. Learn problem-solving techniques and need for group participation.

C. **Understandings:**

1. Community action through involvement and concern.
2. How to use knowledge learned in training programs in action.
3. Political activities.

D. Attitudes and Feelings:

1. Create excitement about education and its potential and Title I.
2. Motivate parental involvement in education through Title I.
3. Attitude toward the role of the professional.
4. Reduce fear of becoming involved.
5. Reduce feelings of powerlessness.

PRECEDURES

This training couse will be parent directed and organized. A consulting committee of those to be involved in the program is formed to plan and evaluate and implement the goals and direction of the course. The methodology to be used will be a case study approach.

Each consultant responsible for a training session will prepare a set of objectives which will be distributed at the beginning of each training session. Activities of each training session will be geared to the attainment of the objectives. At the end of each training session, the consultant, in conjunction with the parents, will review each objective and make a determination as to the number of parents who achieved each objective.

E. Evaluation:

The tentative evaluation plan includes on site visits, a compilation and analysis of objectives developed by consultants and the determination of the extent to which these objectives were attained.

F. Projection:

As a result of the knowledge gained and attitudes developed by participants in the training program, it is anticipated that parents will be able to assess existing programs and develop new ones within Title I guidelines.

[illegible]

OBSERVED NEED: TITLE I LOW WORKSHOP

GENERAL OBJECTIVE:

SPECIFIC OBJECTIVES	METHODS TO OBTAIN OBJECTIVES	EVALUATION PROCEDURES (PERFORMANCE CRITERIA)
1. Parents will be able to specify eligibility requirements for Title I assistance; guidelines for parental and community involvement. 2. Parents will be able to initiate hearings on effectiveness of specific Title I programs.	1. Large group discussion, small group discussion, individual instruction conducted by consultant. 2. Same as #1	1. Actual preparation of a Title I program within established Federal guidelines. 2. Successful initiation and implement tion of a hearing with reference to a specific problem involving a Title I program.

NOTE: *Complete a separate page for each General Objective. Use as many sheets as you need to give detailed information.*

[illegible]

OBSERVED NEED: EVALUATION WORKSHOP

GENERAL OBJECTIVE: ______________________________

SPECIFIC OBJECTIVES	METHODS TO OBTAIN OBJECTIVES	EVALUATION PROCEDURES (PERFORMANCE CRITERIA)
3. Parents will be able to write broad evaluation guidelines.	**3.** Workshop - large group instruction, small group instruction, and individual instruction conducted by consultant.	**3.** Preparation of actual evaluation guidelines for an actual Title I program.
4. Parents will be able to assess the evaluation procedures in actual Title I proposals.	**4.** Same as #3	**4.** Work with actual Title I proposals in small groups.

NOTE: *Complete a separate page for each General Objective. Use as many sheets as you need to give detailed information.*

[illegible]

OBSERVED NEED: BEHAVIOR OBJECTIVE WORKSHOP

GENERAL OBJECTIVE: ______________________________

SPECIFIC OBJECTIVES	METHODS TO OBTAIN OBJECTIVES	EVALUATION PROCEDURES (PERFORMANCE CRITERIA)
5. Parents will be able to write valid behavioral objectives which specify terminal behavior, criteria and conditions.	5. Large group discussion, small group discussion, individiual instruction conducted by consultant.	5. Checklist of objectives prepared by consultant completed on conclusion of workshop. · Parents will write actual objectives for a 1972-1973 Title I proposal.
6. Parents will be able to evaluate objectives in proposals.	6. Same as #5	6. Evaluate actual objectives written into past and current Title I proposals.

NOTE! *Complete a separate page for each General Objective. Use as many sheets as you need to give detailed information.*

[illegible]

OBSERVED NEED: CHILD DEVELOPMENT WORKSHOP

GENERAL OBJECTIVE: ______

SPECIFIC OBJECTIVES	METHODS TO OBTAIN OBJECTIVES	EVALUATION PROCEDURES (PERFORMANCE CRITERIA)
7. Parents will be able to identify and utilize school department resources and personnel with the Title I framework.	7. Same as #5	7. Actual referral to personnel and resources of school department and their utilization in an actua Title I program.
8. Parents will be able to identify any deviations from normal, social, psychological and intellectual development for referral to Title I programs.	8. Same as #5	8. Analysis of specific cases; actua referral of children to Title I p grams.

NOTE: *Complete a separate page for each General Objective. Use as many sheets as you need to give detailed information.*

NARRATIVE SUPPLEMENT

Purpose For This PACT Training Program

A. Difficulties parents have

   1. How parents can become involved.

   2. Lack of experience in how to coordinate efforts with the institutions.

B. Parent's failure to communicate with institutions.

   1. Fear of institutions

   2. Ignorance of institutional operation.

C. Parent Advisory Board History.

Parents become involved on Advisory Board at the request of School Department of Title I. Parents do not know what their responsibilities and rights are under Title I law. Parents feel inadequate coping with the problems of urban society.

D. Potential Enrollment

The parents taking part in this training program would be respresentative of the children for whom the Title I Law is written, and programs developed.

How children may be served by Title I Programs:

This program is planned to have a direct effect on all these children and parents. All parents on PACT - 30 total will participate in this training program. Through this program parents now presently serving on the Advisory Committee can coordinate their efforts and knowledge with the expertise of the educators. To insure continuance of this training program, other interested persons may also voluntarily participate in this training program. It is foreseen that this training program will develop leadership within the communities

Tentative Calendar

September:

Behavioral Objectives Workshop

Dr. Thomas Pezzullo

Assistant Director, CRDC

Univeristy of Rhode Island

Kingston, Rhode Island

October:

Mark Yudoff

Harvard Center on Law and Education

November:

Child Development Workshop

Dr. Lewis Lipsett

Psychology Department

Brown University

December:

Preparation of preliminary draft of Title I proposal

January:

Field trips - local Title I programs and programs in neighboring states.

February:

Participant evaluation of progress to date

March:

Community involvement panel discussion

Reverend Stanley Holt

Reverend McCarthy

Mr. Robert Mason

Mr. Freeman Soares

March (Cont.)

Mrs. Lynn Bland

Mr. Joseph Tomasso

Dr. Gamal Zaki

April:

Title I Hearing Situation

May:

Evaluation workshop evaluation team

June:

Recapitulation of year's activities

0-A
ev.)

SUPPLEMENTARY PROJECT BUDGET DETAIL

SALARIES AND CONTRACTED SERVICES

TITLE I ☒

SECTION 4 ☐

INSTRUCTIONAL ACTIVITY PACT TRAINING PROGRAM

	STAFF								PERIOD OF EMPLOYMENT				
	Position	No.	Hourly	Daily	Weekly	Consultant Services Contracted	Annual Salary Schedule or Pro-ration	Total Cost	Hours Daily	Hours Weekly	No. of Weeks	From	Tc
6	Parents	50			$ 6.00			$ 9,000.00			30		
6	Parent Specialist	1			52.00			1,664.00			32		
5	Parent Liaison	1			42.00			1,344.00			32		
						TOTAL 200 SERIES		$12,008.00					
	Salaries $12,008.00												
	Fringe 625.00												
	Other 4,960.00												
	$17,593.00												

Instructions: Complete a separate salary detail sheet for each Instructional Activity.
Separate salaries by category. (e.g. Instructional, Supportive)

R.I. 6-71
(Rev.)

EXPENSES

INSTRUCTIONAL ACTIVITY PACT TRAINING ACTIVITY

ook I ss.	Item	ESTIMATED EXPENDITURES Other Costs	Contracted Services	Supporting Detail
		$	$	
30	Evaluation		835.00	5% of budget
	TOTAL 100 SERIES		835.00	
0c	Consultants			
	15 @ $50.00 per session		750.00	
	15 @ $75.00 per session		1,125.00	
	TOTAL 200 SERIES		1,875.00	
10	Fixed Charges			
	Social Security		625.00	
	TOTAL 800 SERIES		625.00	
120b	Supplies	$ 300.00		Stationery, pencils, stamps, etc.
120b	Rental of equipment	200.00		typewriter, overhead projector
120b	Rental of facility	1,000.00		
120b	Travel - lectures, other program	350.00		7 trips x $50.00 each
120b	Printing and dissemination	400.00		
	TOTAL 1100 SERIES	$2,250.00		

Instructions: Complete a separate Expense detail sheet for each Instructional Activity.

TITLE I

HOW PARENTS CAN FIGHT FOR CONTROL OF ADVISORY COUNCILS

Involvement of parents in the education of their children is one of the critical areas in the administration of Title I programs, both from the point of view of school administrators and from that of the community being served by the schools. This note develops some ideas and information discussed at a workshop on community organizing around Title I issues which was part of a Title I conference in Chicago this spring sponsored by the Lawyers' Committee for Civil Rights Under Law. The Conference involved attorneys and community people, including representatives of Welfare Rights Organizations, from six midwestern cities as well as representatives from the NAACP Legal Defense and Education Fund, Washington Research Project, the National Welfare Rights Organization, and the Center for Law and Education.

Federal regulations now mandate that Title I programs shall have an advisory committee composed of a majority of parents. Such committees are to have complete access to information about the program and active involvement in the process of planning, implementation, and evaluation. In many cities, community people are interested in gaining some real power over education through participation in Title I Parent Advisory Committees; this is particularly the case with a number of Welfare Rights Organizations (WRO's).

But the experience of most community people who have attempted to gain such involvement has been one of great frustration. People feel snowed under with regulations and rules thrown at them by administrators who don't understand them any better than the parents do but who do understand the value and advantage of keeping the parents confused. Poor parents are made to feel incapable of getting together and pushing through their own ideas and programs in the face of an entrenched and bureaucratically skilled adversary.

This note is not a how-to-do-it on gaining community power over Title I, but it does attempt to set forth some concrete ideas which people might find useful and to invite others with similar information to share it with others.

How to get on a PAC

Federal regulations do not require that PAC members be elected, although this is permitted. (State regulations in Massachusetts have an election requirement and those in other areas working for state-wide guidelines might find this a good demand.) PAC members in most communities are appointed by school officials and thus are usually parents who can be trusted not to rock the boat. Such parents cannot be expected to represent aggressively the community's interests. Where PAC's are elected, the problem is that there are no real opportunities for participation. This apathy is solidly grounded; community people do not delude themselves into believing that membership on an advisory committee has in itself much bearing on access to real power.

WRO's in Kansas City and Dayton have used direct action tactics to gain influence on their PAC's. This has been done by moving directly against the school superintendent or other high officials demanding seats on the PAC. In Kansas City the PAC was controlled, in the WRO's opinion, by "flunkies of the school system." The WRO set up its own PAC and then forced the superintendent to recognize it. These tactics can be very successful if the people have done their homework well. If they have done so, then they are legitimized not only by their support from the community, but also by their knowledge.

What to do on a PAC

Getting good people on the PAC does not mean that they will have any influence. The PAC has to be used effectively; there are very few Title I administrators who want parents to have any actual influence. The strategy generally used by administrators is one of boring the parents. This is done by so controlling discussions at meetings that they remain at an abstract level, dealing with the various difficult-to-understand Title I regulations. In this way, administrators make the parents feel that they don't have the expertise to deal with the education their kids are getting and that they must leave such problems to the administrators. If parents do make trouble, administrators are likely to try to buy them off with a small program for a particular school or a little job for a particularly troublesome parent. In other words, the administrators try to force the parents to play in a ballpark where the parents can't match them in knowing the rules and where the parents will thus lose every time. The result, and purpose, of this is that parents get frustrated and bored and soon stop coming to meetings.

Nonetheless, it is still possible to get some power on the PAC; the key to this is taking control of the ballpark and setting your own rules. (By "setting the rules" we don't mean the Title I regulations themselves, but the way the PAC meetings are run.) Here are a few ideas on how to control the ballpark:

- Be sure that the officers of the PAC control the agenda. If administrators control the agenda, they will have the parents waste their time. If PAC officers set the agenda, then parents will be able to talk about what they want.
- Have a list of all members of the PAC. Sometimes administrators don't want parents to know who else is on the PAC. If they are the only people who know, then

they will be the only people who can control the information that the members will have. That information *is* public under Title I regulations.

- Meet where people can actually hear each other. Meetings held in large auditoriums with chairs set in rows mean that parents won't be able to communicate, and the administrators will control the meetings.
- Make sure the Title I budget includes payment for the members of a small fee ($5 or $10) for each meeting they come to. This will cover transportation and baby-sitting. It is also another reason to come to the meeting. This is legal and is being done in some cities. Title I administrators get paid for being at those meetings. Why not parents?
- Make sure parents have all information about Title I. Parents are entitled to all information except the personal records of teachers, and children in the program. Especially important information will be found in the project applications and evaluations.
- Title I budgets should include funds to permit the PAC to hire its own staff person. Although paid out of Title I money, this person should be responsible only to the PAC, and not take orders from Title I administrators. While we have not heard of this being done anywhere, it is permissible under the Act. The functions of the PAC staff person will be to stay in contact with all members, supply them with all necessary information, and help them develop their ideas and proposals. Experience as an organizer would be useful in this position. The key thing about the staff person is that he must be independent of control by the Title I administration and responsible only to the parents.
- Members of the PAC should develop their own proposals for using Title I money, and aggressively go after funding for them. These proposals should be for *concrete* programs and services in the schools. This is the most important way in which parents can get some control over Title I. When administrators are faced with concrete proposals for programs that are permissible under the law and regulations and parents are sure that the proposals are legitimate and in their self-interest, then the administrators will be forced to say either yes or no. If the answer is yes then the parents have won a victory. If the answer is no then parents will get angry and have a basis for going back to the community to get more people to force Title I to accept the proposal. Concrete proposals are also a good basis for coalitions with the PAC.

Coalitions

Coalitions can be either good or bad.

A bad coalition is one in which there is no real basis of self-interest among the groups making the coalition. Most coalitions with professional people (teachers, social workers) are bad coalitions; the professional people don't have a real self-interest in working with the community people and make the coalition for the purpose of exploiting the community people.

A good coalition is the kind where the groups making it *need* to work with each other to increase their power. A WRO represented on a PAC can make a good coalition with non-WRO parents on the PAC in which the two groups agree to support each other's proposals. Because each group needs the other to have the power to get its own proposal approved, the coalition can work.

What kind of program can you get?

Any education program (including black culture or black history) and any supportive service (like clothing, textbooks, gym clothes) that helps children learn better, and that isn't presently being funded locally, could be funded under Title I. (If you want ideas on programs, the Office of Education in Washington has published a booklet describing 150 "successful" Title I programs.)

Most Title I education programs at present do not seem to teach kids any better than the regular school programs. Kids are taught in traditional ways by teachers who often do not care to improve their methods. To break through this pattern, parents might press for programs where children are tutored by community people. Parents might also try to push for other innovative programs, such as education outside the regular classroom.

Supportive services are also important. They bring direct and tangible benefits to the people Title I is supposed to serve and they also make sense educationally. Kids can't learn when they don't have eyeglasses or decent clothes or health care. Demands for supportive services are also good because they provide a good basis for organizing in the community. And as parents get involved in an organizing drive around something like clothing they will learn that it *is* possible to question the schools. If parents are told by Title I administrators that their kids can't get the clothing they need through Title I, they will begin to wonder how much these people care about the kids themselves. They will also find in this particular case that they have not been told the truth about permitted expenditures under Title I. These insights in themselves may well lead to much greater parent involvement in the schools.

Parent Advisory Councils are only a beginning, but they are a beginning that is made available by the system itself, an opportunity that cannot in good conscience be ignored by those who are working with poor people to change the odds in their favor, both in their schools and in the larger system that schools represent.

Bob Cohen

Reprinted from Inequality In Education,
Number Eight, June 15, 1971, page 46.

COMMUNITY PARTICIPATION IN THE TITLE I DECISION-MAKING PROCESS

Parental and community involvement in the Title I decision-making process is vital to the success of the program. This need is recognized – albeit ambiguously – in the Title I regulations and guidelines. Compliance with statutory and administrative criteria may result in the offering of desirable educational services to poor children, and empirical evaluations may yield some insights into the effectiveness of the program, but ultimately those people for whom Title I is intended can say better than anyone else whether the program is working for their benefit.

The need for the involvement of the beneficiaries is made clearer by the fact that the local educational agencies have broad discretion in choosing among possible educational services, and that there are strong indications that these choices tend to be made on the basis of the needs of the teachers and administrators rather than on the needs of the disadvantaged children the Act is intended to serve. Furthermore, the parents and the community represent an untapped educational resource; their participation may also reaffirm the sense of the dignity and worth of the people in the community involved. As Edgar Cahn has stated, "When a grown man is treated as a child, with respect to those very services being rendered him, he is unlikely to view those services as anything other than rituals of humiliation. . ." One may add that the same is true when the services are offered his children.

Aside from the requirement that the planning and execution of Title I projects be coordinated with programs under the Economic Opportunity Act and that the local Community Action Program director attest to the involvement of community groups in the program, the Act itself does not require community or parental involvement in Title I. The regulations state, however, that:

> Each local educational agency shall provide for the maximum practical involvement of parents of educationally deprived children in the area to be served in the planning, development, operation, and appraisal of projects, including their representation on advisory committees which may be established for the local Title I program. [45 C.F.R. Sec. 116.18(f)]

This regulation is based on the premise that in order to set the "priority needs" of the educationally deprived, a statutory prerequisite, there must be "consultation with teachers, parents, private school authorities and representatives of other agencies which have a genuine and continuing interest in such children." [Guideline No. 46, July 2, 1968]. The institutional framework for achieving this "consultation," however, is unclear. The regulations refer to advisory committees as an acceptable means of involving parents, and at one point, the U.S. Commissioner of Education went so far as to say that ". . .each Title I applicant must have an appropriate organizational arrangement. This means, in effect, that local advisory committees will need to be established for the planning, operation, and appraisal of a comprehensive compensatory educational program." [Guideline No. 46] However, less than three weeks later, the Commissioner retreated from this position and announed that "local conditions may favor other arrangements, ... Whatever arrangement is decided upon, it should be one which your office. . . .finds likely to be effective in increasing community and parent participation in Title I programs for impoverished children." [Guideline No. 46-A] The obvious conclusion to be drawn is that no specific institutional structure is mandated by either the regulations or the guidelines, but that local educational agencies are obligated to set up some structure that works. In this regard, the Commissioner's "suggested" composition and functions of the advisory committee provide a strong indication of how an effective community and parental involvement program should operate:

> It is suggested that at least 50% of the membership of the committee consist of parents of disadvantaged children attending schools serving the area where projects will be conducted, representatives of the poor from the Community Action Agency and parent members of the Head Start advisory committee, if there is a Head Start project in the community, and representatives of other neighborhood-based organizations which have a particular interest in the compensatory educational program."
>
> The local advisory committee should have specific functions, such as:
>
> A. Supply information concerning the views of parents and children about unmet educational needs. . .and establish priorities among these needs.
>
> B. Recommend a general plan for the concentration of funds in specific schools and grade levels.
>
> C. Participate in the development of proposals. . .to/bridge/ the gap between the needs of the pupils and the curriculum of the school.
>
> D. Make written concurring or dissenting comments to be forwarded with the application.

E. Act as a hearing committee for suggestions to improve the compensatory educational program.

F. Hear complaints about the program and make recommendations for its improvement.

G. Participate in appraisals of the program.

There is abundant evidence that the community participation requirements are often ignored in form and almost always ignored in spirit. In 1968, the National Advisory Council on the Education of Disadvantaged Children reviewed 116 Title I programs and found that only two provided for meaningful parental or community involvement in Title I policy decisions, although a larger number did have "paper" community boards. It further appears that the local Community Action Programs rarely engage in any significant monitoring of the local educational agency's use of Title I funds. Where it is necessary to engage in litigation to correct other abuses under Title I [see *Inequalities in Education*, Number Two] an essential element of the suit must be an attack on the failure of the local educational agency to provide for community involvement, and of the failure of the U.S. Office of Education and the state educational agency to disapprove the project application on those grounds. Without assuring community monitoring of the Title I program's administration on a day by day basis, any victory in the courts will be of little avail.

Whether or not there are other serious violations in local Title I administration calling for litigation, it is appropriate for representatives of the community interest to inquire as to the degree of monitoring and control undertaken by the CAP or any community board established under the local Title I project. The advantages of community participation in Title I decision-making are, of course, not limited to assuring compliance with court decisions; the effort of assuring expression of the community's interest in Title I is worth making wherever Title I funds are being spent. Where community boards exist only on paper, every attempt should be made to activate them. Where they do not exist at all, pressure should be applied to the local educational agency, the state and federal offices of education, and the local CAP to bring a community board into existence.

An active community board could well gain a veto over inappropriate or improper Title I spending or could work with the CAP in the absence of a sympathetic response by the local educational agency. CAP education officers or legal services programs could provide the community board with the technical resources necessary to understand and evaluate the forbidding documentation of Title I projects. The ability and time necessary to exercise significant control over a Title I program are such that it may be necessary to compensate community board members for time away from their jobs to assure their effective particpation in their board work.

A secondary benefit of an active community board under Title I is the potential for creating a group of community people both knowledgeable about education and versed in dealing with educators. Such people could exert community influence over education practices in areas far beyond the relatively narrow limits of Title I. .

Mark G. Yudof

Reprinted from Inequality In Education, Numbers Three and Four, March 16, 1970, Page 35.

TITLE I AND EMPOWERMENT: A LITIGATION STRATEGY

by Mark G. Yudof

The inadequacies of American education are often thought to stem from a lack of resources, or, better yet–to use traditional liberal analysis–to stem from a malapportionment of resources which discriminates against minorities and the poor. The corollary of this view is that laws and lawsuits are a peculiarly appropriate means of effecting social changes–in this case, the more equitable allocation of dollars and services. The problem with this analysis is that it is not dollars but the quality of programs, the distribution of resources within schools, the choices among the various educational alternatives that are crucial to the needs and expectations of school children. More dollars may contribute to the resolution of the urban education crisis, but fundamentally, that crisis will not be resolved until public educational institutions are restructured in such a way as to make them responsive to the needs of the poor.

Title I of the Elementary and Secondary Education Act, with the exception of one abused provision, ignores the necessity for institutional change in favor of the traditional premise that educational disadvantages can be dispelled by the application of resources. And Title I has not worked. It has not worked because its dollars and programs have been administered through the same old bureaucracies with their vested interests in personal power, security, and money. And it will not work until the quality of the programs it finances has been substantially improved. This will not occur without a reformation in the politics of education. A power structure that excludes the poor, both parents and students, from its decision-making process is systemically incapable of creating and executing educational programs which will significantly benefit poor children. The assessment of educational needs, the ordering of priorities, and the evaluation of results must involve the consumers of the services, those who have the greatest stake in the outcome of the educational process.

Where white and middle income people exclusively control a school system, inertia and apathy, if not a more invidious discriminatory policy, make recognition of the differential needs of disadvantaged children[1] unlikely.[2] Black schools governed by whites are inherently unequal to white schools governed by whites.[3] Schools with high concentrations of poor children which are exclusively controlled by middle class administrators will not meet the needs of those children. Therefore, in evaluating litigation strategies designed to ameliorate intra-district resource disparities in education, the focus must not be on particular inequalities or particular misuses of funds. Rather the essential questions are: How will this litigation affect the quality of educational offerings; and, to restate the same question in control terms, to what extent will parents and students and the community be able to assert their educational priorities on an unresponsive school administration.

The consideration of Title I lawsuits in the context of enhancing the quality of programs and altering power relationships inevitably leads to the conclusion that a court order to compel districts to concentrate and target funds in accordance with the law, to refrain from treating Title I funds as general aid, and to provide comparable services as between target and non-target schools prior to the imposition of Title I funds alone will not bring about significant changes in the education of poor children. Irrespective of such judicial decrees, the same power structure and the same bureaucrats will administer the programs. Indeed, Title I contributes barely $100 per participating child, which is simply not enough money to make a difference, no matter who administers it. Further, the courts are unlikely to choose to monitor, on a day-to-day basis, the carrying out of their orders. Courts have neither the time, the will, the taste, nor the expertise. The fundamental question then is what results might flow from Title I litigation which would justify the tremendous amount of effort required to bring such suits.

Insiders Expertise

Title I litigation may serve a useful purpose in piercing the veil of secrecy and phony expertise which frequently surrounds the educational process. Like the hospital operating room, the police station, and the automobile mechanic's garage, the schools are run by mystagogues, and the filing of a Title I law suit, based upon prima facie violations of the ESEA, allows the initiation of legal discovery, including the taking of depositions and interrogatories, and the production of documents. There is a good deal of information which can be obtained in this manner.

1. Under Guideline #54, public citizens are entitled to review all approved Title I project applications, including supporting documents such as correspondence and equipment inventories.
2. Under Guideline #46 and #46-A, parent advisory committees should have access to unapproved project applications on the theory that there cannot be meaningful parental participation if parents are not able to review programs until they have been finally approved.
3. In order to determine whether Title I monies are being targeted properly in accordance with Regulation #116.17(d), i.e., not used as general aid, school districts should be compelled to list the employees whose salaries are paid, in whole or in part, from Title I funds, and to specify the school to which each was assigned and the duties which each performed to benefit Title I eligible

children.

4. The present location of each piece of equipment purchased from Title I funds should be specified in order to determine whether the equipment is being made available to all children or only to Title I eligible children. See ESEA Title I Program Guide No. 44.
5. Title I parent advisory committees should have access to test results and program evaluations in order to fulfill their obligation to recommend programs which meet the special needs of their children. See ESEA Title I Program Guides Nos. 46, 46A.
6. In order to establish that target schools are providing services which are comparable to services in non-target schools, the school district is obligated to provide school by school breakdowns on teacher salaries, administrative salaries, secretarial salaries, library and textbook expenditures, and equipment and construction expenditures. §109(a)(3) of Title I, ESEA (1970 Amendment).

If the information outlined above can be obtained through Title I litigation, the community has a superb weapon with which to compel school administrators to make qualitative changes in programs; the publicizing of the school system's inability to educate and the disclosure of irregularities in the administration of federal funds will embarrass the educational bureaucrats. Further, such revelations may undermine public confidence in the educational power structure to such an extent that the door may be opened to community participation in the decision-making process.

Sand in the Machine

Aside from the informational aspects of Title I litigation, the threat of a law suit, if well-timed, may give the poor bargaining power to affect program changes—even though those changes may be unrelated to the legal basis of the suit. The trauma of litigation, the inconvenience of depositions, the fear of adverse publicity, and the costs of defense may well make school administrators more amenable to making concessions. Conversely, a Title I law suit may prove to be a rallying point for the community, a catalyst for an organized community effort to tackle educational problems. Litigation affords community people, who have been frustrated by their inability to affect educational decisions, a concrete means for questioning the authority of the so-called educational experts. It also affords them an opportunity to formulate specific grievances and to concentrate on specific issues. Vague, inexpressible notions of the inadequacies of the welfare system did not generate the community activism that the simple phrase, "$5500 or fight" produced. Similarly, the simple idea that poor children are being cheated out of Title I dollars and services earmarked for their benefit is a far more effective basis for community action than an amorphous feeling in the community that schools are somehow not doing for poor children what they should.

In school districts where the administrators have failed to make even the usual superficial effort to involve parents in the Title I program by establishing a Title I advisory committee, a Title I law suit may be used to compel the establishment of such a committee on a basis which is far more favorable to the community than it would have been if the school system had acted on its own initiative. Where there is an on-going advisory committee composed of people sympathetic to the school administration and para-professionals who have a vested interest in the status quo, the reluctance of the judiciary to intervene in day-to-day educational governance may make it difficult to argue that the realities of the composition of the committee belie the outward forms of meaningful parental and community participation. On the other hand, where no advisory committee exists, plaintiffs in the litigation, by virtue of having raised the issue, may well have standing to propose to the court a particular institutional structure and a particular method of selecting committee members. Needless to say, an effective Title I advisory committee which forcefully enters into process of making programming choices and which monitors the activities of the school system is a significant step toward effecting the power transfers which are essential to the improvement of the education of the poor.

Another reason to adopt a Title I litigation strategy is that a law suit might well compel state and local educational agencies to adopt regular procedures for the review and approval of Title I project applications. Often there is a mystical and secretive process for channeling Title I proposals through the bureaucratic power structure, a process which remains unknown to those who are most directly concerned with the education of poor children—the children, the parents, and the community. Title I litigation can also have the effect of publicizing the stages in the process—the specific dates of each review and the names of the reviewing officials—whereupon parents would be able to make timely objections to the approval of particular programs. Further, it is not unreasonable to establish the principle that public hearing should be required at each level of consideration. Armed with detailed information on the Title I programs, cognizant of the steps necessary to gain approval for projects, and given some access to the approval process, parents and community groups may have leverage to affect program decisions.

Title I litigation may provide parents and the community with a forum from which to make counter-proposals for the programming of Title I funds. If the litigation has the effect of undermining the court's confidence in the ability of the school administrators to formulate and execute programs which benefit the poor, then the court may be receptive to the community's notions as to what constitutes an effective program. Given such an opportunity, a plan could be submitted which would bypass the normal bureaucratic channels for the implementation of programs. Further, a counter-proposal would provide the court with some standard against which to evaluate the school district's programs, and possibly the school board could be required to review the community's proposal and to give written reasons for refusing to adopt it.

→ *to page 16*

→ *from page 12*

Finally, there may be remedies in Title I suits which go beyond declaratory and injunctive exhortations to do the job right and into questions of control and of educational quality. If plaintiffs can point to outrageous uses of Title I funds (fire engines, bedroom sets, football jerseys, air conditioners, carpets, and so forth; all examples taken from HEW audits and pending lawsuits), if a long series of violations of substantive provisions of the law can be shown, and if the target children have received no demonstrable benefit from the presence of Title I funds in the district, then litigants can, with some confidence, try to convince the court that the school administration is systemically incapable of raising the achievement levels of poor children. The logical remedy in such a situation is a court-appointed master, receiver, or community committee, to oversee the Title I program and to ensure compliance with the law. The court should also be asked to establish a constructive trust whereunder unlawfully expended funds may be recouped and then employed to fund lawful projects supervised by the court's receiver. The essence of these remedies is obvious. Title I lawsuits should be employed as a means of gaining as much power for the poor to control the quality of their children's education as can be wrung from the court.

There are also dangers in Title I litigation. Recent experience with the comparability requirements, as reported on page 22 of this bulletin, has shown that Congress may be willing to suspend portions of the law as quickly as efforts to enforce it materialize. A loss in court may shatter the will of the community, particularly if it is unsophisticated, to organize around educational issues. Further, community efforts spent on Title I suits obviously divert legal and organizing resources from other worthy projects. Beyond these considerations, however, the decision to file a Title I law suit should not represent a judgement that a court can be persuaded to scold the school administration. Nor should a decision *not* to file a suit represent a judgement that proper administration of the Title I program is not a prize worth winning. The decision must be made in terms of whether the litigation will enable parents and the community to gain some power over educational decisions. The prospect of such power must be the primary purpose of Title I litigation.

FOOTNOTES

1. See Michelson's article in this issue, page 7, and in *Inequality in Education*, No. Two, page 4; Taba and Elkins, *Teaching Strategies for the Culturally Disadvantaged* (Rand, McNally Co., 1966).
2. See, e.g. Rogers, *110 Livingston Street* (Random House, 1968).
3. In this view, *Brown v. Board of Education* may be considered an effort to so commingle the educational fortunes of black and white children as to make discrimination against blacks by the whites who control the schools impossible.

Reprinted from Inequality In Education, Number Five, June 30, 1970, page 11.

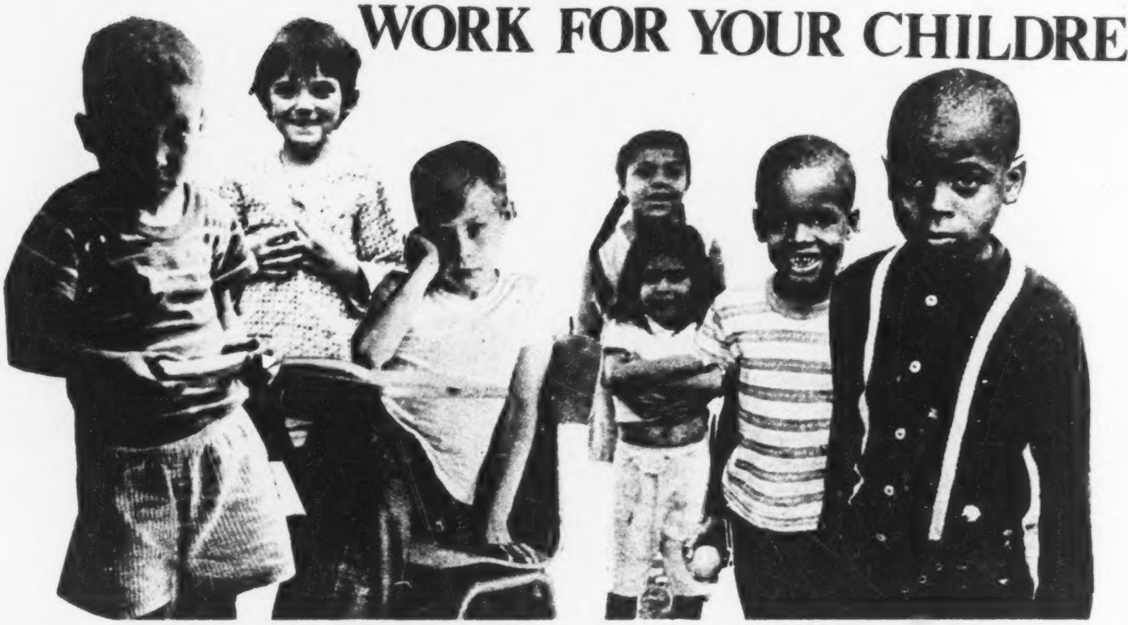
II. Title I Campaigns

Much local Title I activity has been focused on community demands that Title I funds be used for those items which the community regards as priority. One frequent example has been the demand for clothing for Title I children. The following materials include an organizing pamphlet for parents, relevant OE Program Guides on school clothing, a report of a completed clothing project study and a case study of a clothing campaign in Milwaukee.

Title I advocates will want to expand the scope of current programs to meet community needs. An important first step is securing evaluation reports of past programs; making a study of those reports and determining whether the existing Title I program really best serves Title I children. The communtiy should then be prepared to put forth its own alternatives.

NATIONAL WELFARE RIGHTS ORGANIZATION

MAKING
TITLE 1
WORK FOR YOUR CHILDREN



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nwro october 1970

Many poor children are educationally deprived. Educationally deprived means behind in school, or having a difficult time learning. Our children are not deprived because they are not bright but because they are HUNGRY .... and hungry children cannot learn. They are deprived because we can't afford to give them carfare and they are TIRED... and tired children cannot learn. They are deprived because they DO NOT HAVE PROPER CLOTHING... and children who don't have proper clothing cannot learn. They are deprived because we have no money and they DO NOT HAVE SCHOOL SUPPLIES ... and children who don't have books, paper, pencils, and other important supplies that the schools don't supply cannot learn.

What is Title 1

Your School Board has money to meet your child's school needs.

It gets this money from the Federal Government through the Title 1 program. Title 1 is a part of the 1965 Elementary and Secondary Education Act. It provides money for any programs and services that will give a better education to "educationally deprived" children in poor school areas. These programs and services can include such things as clothing, transportation medical and dental care, books, supplies, extra teachers, eye glasses, hearing aids, food programs and special learning classes.

Up until now, the Office of Education (OE) hasn't paid much attention to the Title 1 program. Many School Boards have been spending the money on fancy learning programs and fancy equipment like movie projectors and airconditioning. These things are important for education if your children can get to school in the first place, if they are well-clothed and healthy, and if they can read. But poor people know that their children aren't ready for the airconditioning and the movie projectors because they haven't even got clothes to wear to school or books to learn from. Your child has the right to get everything every other child in your school district gets in school. He also has the right to get special, extra, help from Title 1. But you will have to organize and fight to get it.

Start organizing today!

Some WRO's have already started organizing and complaining about the way Title 1 money has been misused. They are changing things!

In Indianapolis, Indiana, the WRO put pressure on the Title 1 Co-ordinator to say that clothing is an educational need. He agreed! He gave them $50 per child in the application. He also wrote into the application that they would have majority control on the Advisory Board. Now they can supervise all Title 1 spending and be sure that Title 1 works for the poor children of Indianapolis.

In Bakersfield, California, the School Board was running a Title 1 funded English language remedial reading program which was not helping the many Mexican Americans there. Parents got organized and made the program be changed to a bi-lingual one.

In Gary, Indiana, the School Board refused to use Title 1 money for clothing. Mothers organized a campaign and they won. Now they are getting Title 1 clothing money for their children.

In Poplar, Montana, for five years the Brocton School district refused to apply for Title 1 money. The local Indians organized and went directly to the State Title 1 Co-ordinator. He set up a different funding program through a friendly School Board member. The people drew up their own project and it was accepted. Now they are making all the important decisions about the program and operating part of it.

Join the fight for poor children's rights!

How Title I is Supposed to Work

the money

All Title 1 money comes from the federal Government. It goes to every school district in the country that has ten or more poor people living in it. Congress decides how much money can be spent on Title 1. The Office of Education divides the money among all U. S. counties by the number of poor people living there.

who gets it

All the children counted do not get the money. The School Board chooses school areas that have the most poor children (target schools) and they choose children (5 to 17 yrs) in those schools that need the most help with their work (target children). The money follows the child, according to Title 1 regulations, so children who live in the area but who are bussed to other schools or go to private school, or have dropped out, are included.

the application

Once the amount of money is decided, local school boards can apply for it to the State Title 1 Co-ordinator. Every school district writes its own application to fit its own needs. The application is written for the school board by the Superintendent of Schools or the local Title 1 Co-ordinator. (The Title 1 Co-ordinators sometimes use other titles like Special Projects Director or Director of Federal Programs). They are supposed to take the advice of school principals, the school board and an advisory board of parents and people from the community.

what's in it

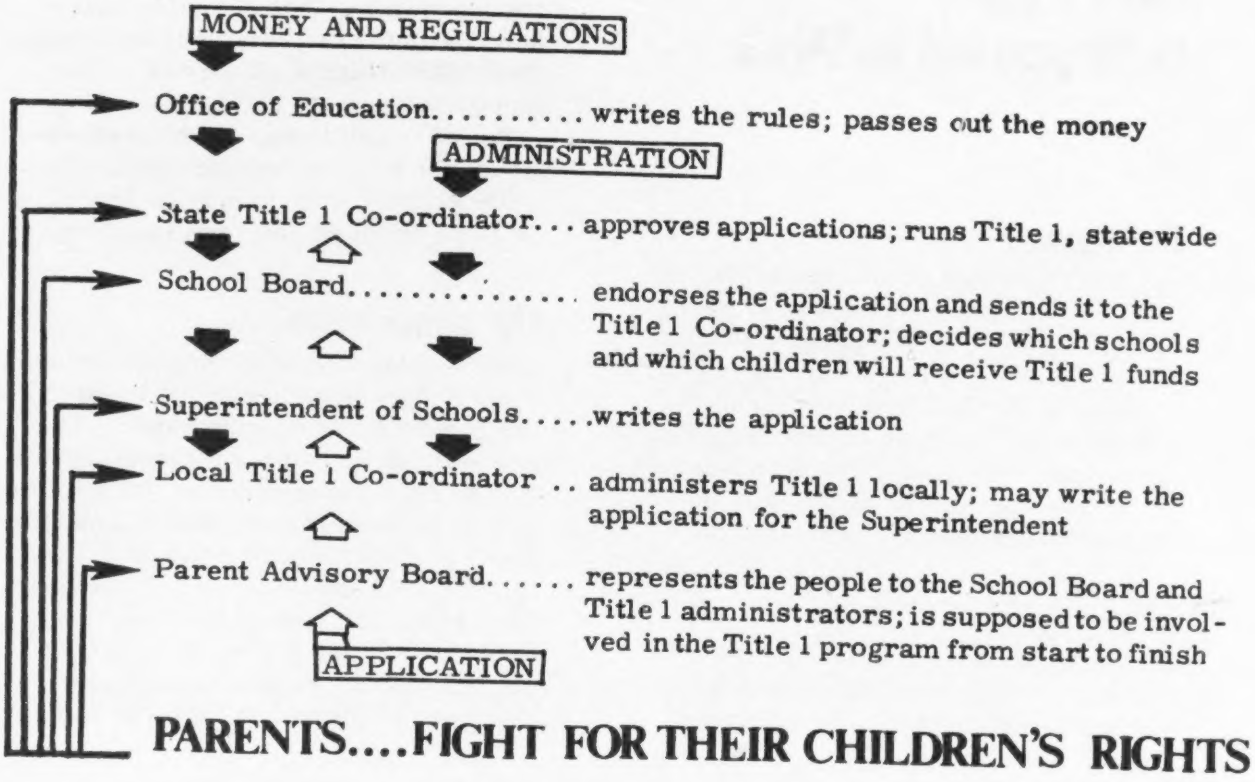
The School Board proposes a budget and programs which they think will help the children get a better education and catch up to their grade in school.

approval of application

When the application is ready, the School Board sends it to the State Title 1 Co-ordinator. He has to approve it before the district can get its money. The local CAP agent has to sign the proposal before the School Board sends it to the State Title 1 Co-ordinator, but it doesn't matter whether he approves it or not. His opinion has no power.

amendments

If a district doesn't apply for all the money at once, they can get it later by writing an amendment to the first application. For example, they might decide to have a summer program but might want to wait to see what the children's needs are at that time. So they leave some of the money for later. Writing an amendment is the same as writing the application. . . all the same people write it and all the same people must approve it. A Title 1 program may be changed by amendment at any time, before or after it has been approved. This means that even if the program for your district has been approved and you don't think it adequately meets the needs of your children, your WRO can fight to have it changed.



Office of Education.......... writes the rules; passes out the money

State Title 1 Co-ordinator... approves applications; runs Title 1, statewide

School Board............... endorses the application and sends it to the Title 1 Co-ordinator; decides which schools and which children will receive Title 1 funds

Superintendent of Schools.....writes the application

Local Title 1 Co-ordinator .. administers Title 1 locally; may write the application for the Superintendent

Parent Advisory Board...... represents the people to the School Board and Title 1 administrators; is supposed to be involved in the Title 1 program from start to finish

PARENTS....FIGHT FOR THEIR CHILDREN'S RIGHTS

How to tell if your child should be getting Title 1 benefits

1 Are there more poor children in your public school than non-poor children?
OR
If your district is mostly non-poor, are most of the poor children in your child's public school?

2 Is your child educationally deprived
  because he is behind grade level or
  because he is handicapped or
  because he is poor or
  because he is delinquent or
  because he doesn't speak much English

If you answered YES to any part of both questions 1 and 2, then your child should be getting Title 1 benefits. You should fight to see that he does!

How Title I Really Works

(How the Money is Misused)

The way that Title 1 was thought up and the way it really works are two different things. It was meant to help poor children in school. . . . . that is why the money goes to schools where there are large numbers of poor children. But because of bad administration and because of bad decisions made by the local School Boards, many poor children are not getting the help they need. The money is being spent on children that don't have as great a need and on programs that have little to do with poor children's basic educational needs.

wrong priorities

Poor children lose out because some School Boards choose movie projectors when the children really need eyeglasses. In Atlanta County, Missippi, Title 1 money was used to construct lagoons for sewage disposal.

Poor children lose out if the school board neglects to count AFDC children in its application. When this happens, the money may not get to the school your children go to.

Poor children lose out because the law says the money should go to undereducated children in target schools, not just to the poor. In most districts, there are enough poor children for most of the money to go to them. But in richer districts, where the poor are a minority, poor children may be left out while slow-learning middle-class children are helped. In Mississippi, there was a summer school program for ANY child that had not passed a grade in school. Poor children start off in school with greater needs than non-poor children. . . . these greater need should get first attention.

general aid

Poor children lose out when Title 1 money is used as "general aid". That means that Title 1 equipment, staff, or programs are being used on non-target schools or children. General aid is against Title 1 regulations. In Georgia, Title 1 was used to purchase a mobile curriculum center for non-Title 1 schools. This is illegal. In Indianapolis, Indiana, Title 1 money was used to buy data processing equipment in the central office of the local school system. This is illegal.

advisory board

Poor children lose out if there is no parent advisory board or if the one there is doesn't represent them. The law says there should be a board of parents helping the School Board make decisions about Title 1. The law says parents should be involved in the Title 1 program too.

supplanting

Poor children lose out when Title 1 is used to "supplant". That means it is providing the same thing that local money is providing in another school (like an art teacher. . . . local money should pay for art teachers in all the schools if it provides them in some) or its providing something the school had before it got Title 1 money (like a school nurse.... if local money paid for one before, it should keep on paying for one), or it's providing something the school could get from some other program (like school lunches). Supplanting is against Title 1 regulations.

concentration

Poor children lose out because the Office of Education says that they don't want to spread the money over too large a number of children because then they might not get very impressive results. But what happens to all the others that need help just as badly? OE believes in concentrating the money, spending a lot on just a few. NWRO believes in spreading the money to EVERYONE who is eligible. Concentration is still a rule in Title 1. You can fight to get rid of it in your district, or you can fight to have it work for you by demanding that only those who turn in your WRO forms (for clothing or whatever else you demand) get Title 1.

Poor children lose out when no one is watching that Title 1 treats them fairly.

Poor children can win if you find out about Title 1 and fight for your children's rights!

How to Organize a Title I Campaign

People that have started fighting for their children's rights from Title 1 have been winning. Here are some organizing ideas to help you get started on your own Title 1 campaign. You should divide the organizing into two parts: first behind the scenes getting ready, and then in the streets, fighting.

Behind the Scenes

1

Form a Title 1 Strategy Committee

They can find out the facts and develop support for whatever you decide to do around Title 1. (Since Title 1 is run by the whole school district it is important for your committee to get together with any other WROs in your district.)

2

The Committee should learn the law.

The most important things for them to know about the Title 1 process are back on pages 6-7. If they have further questions, they can get in touch with a local lawyer or call the NWRO national office. WRO groups can call collect: (202) 347-7727.

3

The Committee should investigate Title 1 in your school district to see how the money has been used in the past and what plans, if any, have been made for the next year. They should be looking for the kind of misuses and bad priorities that are listed on pages 10-12... general aid, supplanting, miscounting of the poor people in your district, non-existent or non-representative parents' advisory board, and concentration that continues to leave out eligible children that need help in school.

All the information they need to find out about Title 1 in the district can be gotten from the local Title 1 office which is probably in the Board of Education building.

You have a right to get all the information about Title 1 that you want. There is a rule in Title 1 that says everyone has the right to see and copy all documents that are related to it. That means regulations, guidelines for how to run the program, applications, budgets, etc. If you have any trouble getting to see things, threaten to call a lawyer, or the State Title 1 Co-ordinator, or the Director of Compensatory Education at the Office of Education in Washington D. C. Have the director send you a copy of the regulation to present to your local Title 1 people.

Look through things first and then decide what you want copies of. Probably the most important things to have are the application (including application forms, a budget, and a program description) evaluations from past programs, amendments to the application or budget, and a list of who is on the advisory committee if there is one.

Be sure to check the equipment inventory; you may see some things you know are not so important, like data processors and air-conditioners.

Find out what the schedule is for meetings about Title 1, and for getting the proposal in to the various people that must approve it.

Check to see if there is any money left over from the year before. There usually is. There is a new rule which says that if a district's money isn't used up one year, the district can add it to their money the next year. This is like extra money that you should be able to get for whatever you feel children need for school.

Send a delegate to visit target schools and non-target schools to talk to the teachers and principals about Title 1 in their school. Ask the same questions at both kinds of schools so you can compare and see if there are regular programs left out of target schools.

4

The Committee should decide what demands to make after they have finished investigating. Their decisions should be presented to the entire WRO membership for approval. Some suggestions of what to demand are listed below:

* Demand that the low-income line for determining who gets Title 1 be set at $5500, NWRO's Adequate Income level.

* Demand WRO involvement in Title 1 decisions. NWRO is the largest organized representative of poor people. It has a legitimate right to represent their children's needs in school.

- * Demand to have a majority on the Parent's Advisory Board. . . . but remember that being on the board shouldn't keep you from pressuring from the outside too. Putting you on the board may be the system's way of trying to tie your hands (keeping you busy and keeping you away from the real work of fighting to get the Title 1 money for school clothing and other educational needs of your children).

- * Demand that the parent's advisory board be given some real power in setting priorities of the program and in supervising expenditures.

- * Demand supportive services: clothing, transportation, money, books and other school supplies, dental care, eyeglasses, hearing aids, school insurance, and money for graduation (as well as other expenses usually required by the school. Anything that helps your children get to school and do better there can be paid for by Title 1. All these services cannot be given to all the Title 1 children. The schools must determine which children need what. You can tell them what your child's needs are by turning in an NWRO school needs form (see page 24).

- * Demand that all WRO children eligible for Title 1 be also eligible for supportive services, even those not getting other Title 1 programs.

- * Demand that only WRO school needs forms be used to determine who gets the goods. Then people will have to join WRO to have their children's needs met.

- * Demand that a voucher system be used for clothing and supplies and that the WRO can name the stores the vouchers will be used at.

- * Demand that the program be amended to accept your demands if the application has already gone through and you do not approve of its proposals.

5

The Committee should build support

At the same time that the committee is finding out about Title 1 in the school district, they can begin building community support. There are two kinds of support that you will want to have: support from the outside and support from new membership. Title 1 is a very good issue for finding new friends and new members because everyone is interested in education. Friends you now have can help do some of the research and investigating for you. New Friends and old can put pressure on School Board members from their own area to support WRO's demands. Get endorsements from other local organizations for your demands. Try the PTA, churches, local politicians, councilmen. You might be able to get endorsement from the local teacher's union. Remember, the School Board is a political group in most places and should respond to a lot of pressure from a lot of people.

Get lawyers to help you look at Title 1 documents and give legal support to your demands. If someone tells you that what you want to do is against the law, check with your lawyer and he may be able to find a law that says you *can* do it. NWRO's national office may be able to give you the name of a lawyer in your area that has already worked on Title 1.

NEW MEMBERSHIP

Poor people *know* what a bad deal their children get in school and they will be glad to link up with NWRO and fight for something better. Visit people's homes and explain what Title 1 is and that it is meant for their children. Invite them to a meeting where you will talk more about NWRO and Title 1. Everyone who comes could join WRO and fill out school needs forms to present to the School Board when you are ready to hit the streets. Your WRO should have a copy of everybody's school needs form for their records. See the sample school needs form on page 26.

USING THE PRESS

Newspapers and radio and television news are very important tools for building membership and outside support by getting your message to the public. It tells them about your WRO, about how you think Title 1 has been misused, and how you think it should be used. The people running Title 1 will be very surprised and not too happy to find their program in the news. Bad publicity can help make them shape up.

How to get PUBLICITY

1 Write up a press release and send it to local newspapers, radio and TV stations, as well as the national wire services, like Associated Press (AP) and United Press International (UPI). Be sure to include: WHAT is happening
WHEN it is happening
WHERE it is happening
WHY your WRO is taking action
HOW your WRO is connected to NWRO actions nationwide

2 Be sure to put the name of your group, telephone number, and the name of the group member who will be your press spokesman at the top of your release. This will help reporters get in touch with you.

3 Call up local talk shows and tell about your WRO action.

4 The day of action, make sure someone is assigned to telephone the papers, radio and TV stations, and make sure reporters have an accurate story. Be sure to have extra copies of the press release for reporters at the action.

5 Publicize your action and keep it going by distributing fact sheets and talking to welfare recipients on check day at check-cashing places, food stamp points, food distribution depots etc. asking them to come and fight for their rights.

taking action

In the Streets

Now you are ready for action
Here are some suggestions:

Have a public hearing. Invite old and new members, Friends, and reporters to come. Let everyone know what your demands are and what your plan of action is. Every city is different... the Title I people are co-operative in some places, bad in others. You'll have to decide who to hit first in your district. Here is one way of going at it.

Go to the School Board. Find out when they are meeting and go. School Board meetings are open to the public. You have a right to be there. Turn in your clothing forms when you get to the meeting. Then insist that Title 1 be the first thing on the agenda of the meeting. They may say that it's too late to talk about Title 1, that the application has already been finished, but you know that doesn't matter, you can get an amendment. Take over as many meetings as you have to in order to get your demands met. Decide before you go when you want a decision and what you'll do if they don't answer your demands.

Go to the Superintendent of Schools. He's the one who is supposed to write the application. Give him a list of your demands to put in that application. Sit-in, picket put on whatever pressure you can think of until you see the "new" application. He doesn't have as much power as the School Board, but he'll make them get you off his back if you pressure him a lot.

Go to the schools themselves. Demonstrate. Have large numbers of your members visit target schools to observe Title 1 in action. Have a sit-in in the principal's office or picket outside the building.

Go to the Local Title 1 Co-ordinator Use legal threats about misuses of Title 1 funds. Put pressure on. He is like the Superintendent...he doesn't have a lot of power except when he cries "help" to the School Board and makes them agree to your demands.

Go to the top If you have specific information about misuses of Title 1 money or lack of parent involvement or anything else wrong with the way Title 1 is being run, write letters of complaint to the top. Send copies to:

1. Local and State Title 1 Co-ordinators
2. the Director of Compensatory Education (Office of Education, 400 Maryland Ave., Washington DC)
3. the Title 1 Staff (Office of Education, 400 Maryland Ave., Washington DC)
4. the press
5. NWRO's national office (1419 H ST st. NW, Washington, DC).

The national office can help put pressure on in Washington if these people don't answer quickly.

Once the decision is made, call a press conference to announce all the details of your victory. Send copies of your proposals and newsclippings to NWRO's national office so they can spread the good news.

Keep constant watch over Title 1 to make sure you are getting what you fought for. And keep organizing. Your victory can attract many new members who will want to get Title 1 benefits for their children too.

appendix

Important Quotes from Title 1 (law and guidelines)

TITLE 1 OF ESEA, 1965: PUBLIC LAW 89-10 and
TITLE 45, PART 116 OF THE CODE OF FEDERAL REGULATIONS
REVISED AND AMENDED AS OF NOVEMBER 28, 1968.

Each local educational agency shall provide for the maximum practical involvement of parents of educationally deprived children in the area to be served in the planning, development, operation, and appraisal of projects. (116.18 (f.))

"Educationally deprived children" means those children who have need for special educational assistance in order that their level of educational attainment may be raised to that appropriate for children of their age. The term includes children who are handicapped or whose needs for such special educational assistance result from poverty, neglect, delinquency, or cultural or linguistical isolation from the community at large. (116.1 (i.))

Each.... project must be tailored to contribute particularly toward meeting one or more of the special educational needs of educationally deprived children and should not be designed merely to meet the needs of schools or of the student body at large in a school or in a specified grade in a school. (116.17 (g.))

No project under Title 1 of the Act will be deemed to have been designed to meet the special educational needs of the educationally deprived children unless the funds made available for that project are to be used to supplement, and not supplant State or local funds. (116.17 (h.))

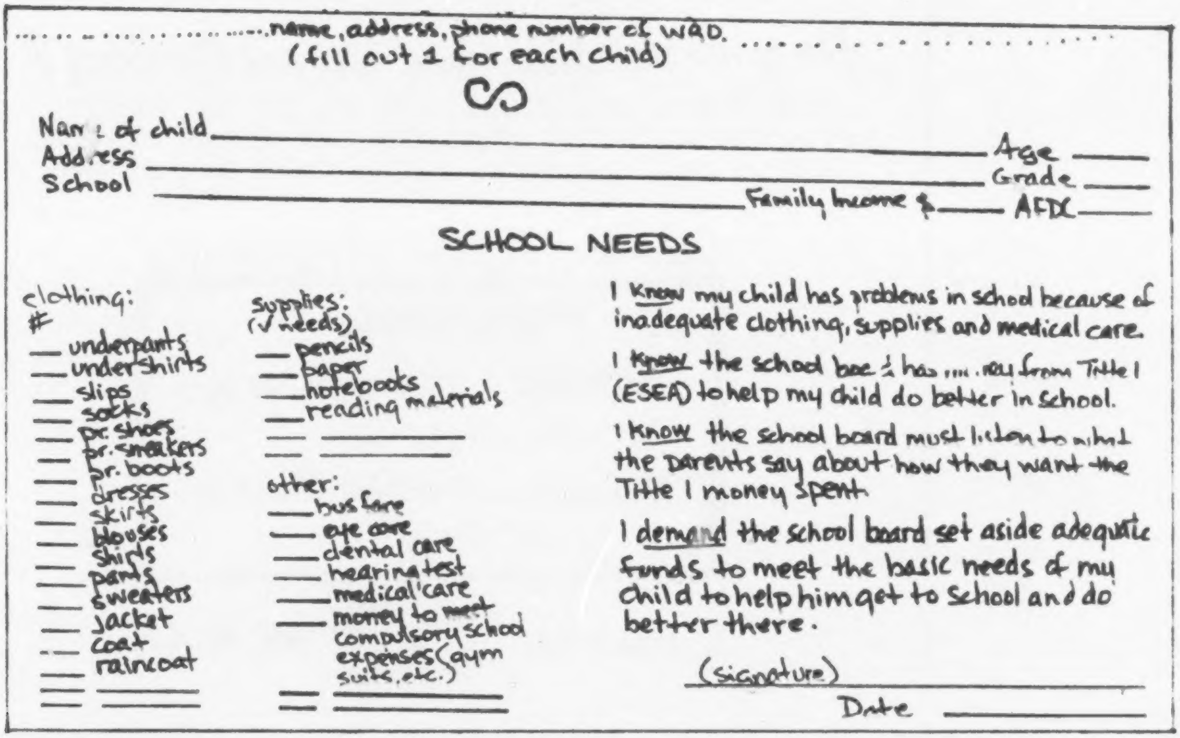
Program guide #44: All proposals to provide health, nutrition, welfare and recreation services under Title 1 should be fully justified on the basis that the resources of other agencies are not adequate to meet high priority needs for these services.

The terms and provisions of each approved project shall be made available, by the State educational agency and by the affected local educational agency or agencies, for public inspection. (116.34 (d.))

If you can't get copies of these regulations from your local Title 1 Co-ordinator, write or call the NWRO national office.

The Washington Research Project (1823 Jefferson Pl., NW., Washington, DC.) has put out an organizing packet too: Title 1 in Your Community. They have also published a booklet on the misuses of Title 1. This booklet is called Is It Helping Poor Children? You might want to write and ask them if they have any copies available.

NWRO SCHOOL NEEDS FORM



…name, address, phone number of WRO. …
(fill out 1 for each child)

Name of child ______________ Age ____
Address ______________ Grade ____
School ______________ Family Income $____ AFDC ____

SCHOOL NEEDS

clothing:
#
___ underpants
___ undershirts
___ slips
___ socks
___ pr. shoes
___ pr. sneakers
___ pr. boots
___ dresses
___ skirts
___ blouses
___ shirts
___ pants
___ sweaters
___ jacket
___ coat
___ raincoat
___ ________
___ ________

supplies:
(✓ needs)
___ pencils
___ paper
___ notebooks
___ reading materials
___ ________
___ ________

other:
___ bus fare
___ eye care
___ dental care
___ hearing test
___ medical care
___ money to meet compulsory school expenses (gym suits, etc.)
___ ________
___ ________

I know my child has problems in school because of inadequate clothing, supplies and medical care.

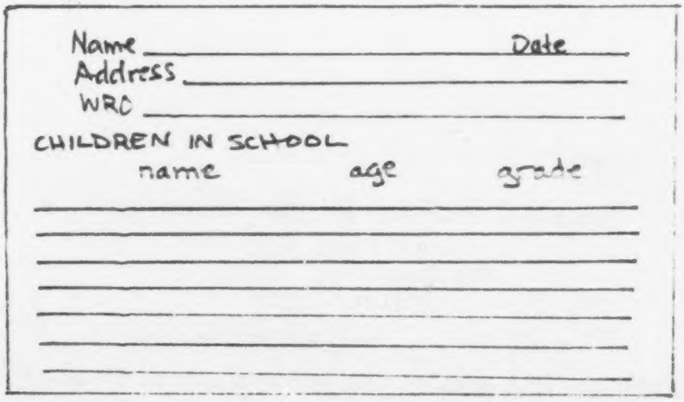
I know the school board has money from Title I (ESEA) to help my child do better in school.

I know the school board must listen to what the parents say about how they want the Title I money spent.

I demand the school board set aside adequate funds to meet the basic needs of my child to help him get to school and do better there.

(signature) ______________
Date ______________

Have the mothers fill out a small card for the WRO records too. It might look like this:



Name ______________ Date ______
Address ______________
WRO ______________
CHILDREN IN SCHOOL
name age grade
____
____
____
____
____
____
____

Remind everyone that they only have to fill out forms for their schoolage children. They should be sure to fill out forms for any schoolage children that have dropped out, and where it says "grade" they should write "drop-out". These children have a right to Title 1 too.

Sample flyer...... telling people to come to a WRO meeting about Title 1

Do your children need School Clothing?

OUR SCHOOL BOARD HAS TITLE 1 MONEY TO BUY CLOTHING SO OUR CHILDREN CAN GET TO SCHOOL. BUT WE'VE SEEN NONE OF IT. WHAT CAN WE DO?

COME TO THE MEETING!

MEETING

10:30 · Thursday,
March 14
Salvation Baptist Church
87 Oak St.

Lyle Hill W.R.O.

National Welfare Rights Organization
1419 H Street, N.W.
Washington, D.C. 20005
(202) 347-7727

With thanks to NEA and VISTA for the use of their photographs

TO PROTECT HER RIGHTS
LEARN YOURS!
Welfare Rights

ESEA Title I Program Guide #60
DCE/OE

MEMORANDUM TO CHIEF STATE SCHOOL OFFICERS

Subject: Clothing as a Title I Auxiliary Service

Several inquiries have been made recently concerning the use of Title I funds to provide clothing for needy children of school age. I am concerned, as I know you are, that a lack of clothing may prevent needy Title I eligible children from receiving the benefits of a Title I program as well as the regular school program. Accordingly, we are summarizing established policies for such a Title I auxiliary service.

SEA's may approve applications for Title I programs which include a clothing component under the following circumstances:

1. The provision of clothing is a part of a comprehensive program designed to meet the special educational needs of educationally deprived children residing in eligible school attendance areas.

2. The clothing is provided to only those children who are participating in Title I educational activities.

3. Documentation is furnished that the provision of clothing is necessary for attendance at school.

4. Evidence is provided that all other resources for supportive services have been exhausted.

5. Provision is made for eligible children in public and nonpublic schools on a comparable basis.

6. Procedures are established whereby the effectiveness of the clothing component is evaluated.

7. The arrangements for the purchase of clothing are such to insure that the eligible children actually receive the clothing purchased with Title I funds.

Thomas J. Burns
Acting Associate Commissioner for
Elementary and Secondary Education

cc: State Title I Coordinators, ESEA

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

September 15, 1970

ESEA Title I Program Guide #60A
DCE/OB

MEMORANDUM TO CHIEF STATE SCHOOL OFFICERS

This Program Guide expands and clarifies the provisions contained in Program Guide #60 issued August 14, 1970.

Program Guide #60 reaffirmed that Title I of the Elementary and Secondary Education Act is an educational, not a welfare, program and restated the policy that clothing be provided as a supplementary service under Title I only in emergency situations. The criteria for determining whether clothing is an allowable expenditure were summarized in the seven provisions listed in Program Guide #60.

Program Guide #60 was intended to be read as discouraging across-the-board clothing expenditures under Title I. The Act's legislative history specifically indicates that clothing should be provided only on a discretionary basis. Although the congressional committee reports include clothing in a list of possible services to be provided for educationally deprived children, the item for clothing, shoes, and books is the only one which includes the phrase "where necessary."

In determining the necessity of clothing expenditures in local Title I applications, State educational agencies must follow the restrictions outlined in Program Guide #60 and the requirements of Title I, as listed in Program Guide #44, for State approval of local projects.

I invite your attention particularly to the following by way of clarification:

1. Where eligible children are receiving clothing purchased with Title I funds, in accordance with item 7, no direct payments shall be made to any child or parent, either by the school district or through a welfare agency.

2. There shall be no predetermined amount or flat rate applied to clothing necessary for any child participating in a Title I educational program. Such predetermined amounts would violate the requirement to assess the high priority needs of individual educationally deprived children as reflected in Program Guides #44 and 45A. In the case of special clothing needs, each child's specific needs should be identified with the type and quantity of clothing necessary for school attendance specifically outlined. Such needs will vary widely among individual children.

3. Only children participating in Title I educational activities are eligible to receive clothing provided with Title I resources. The clothing should be provided to those children whose special needs in this regard have been assessed to be greatest. Section 116.17(g) of the Title I regulations states that:

> Each such project must be tailored to contribute particularly toward meeting one or more of the special educational needs of educationally deprived children and should not be designed merely to meet the needs of schools or of the student body at large in a school or in a specified grade in a school.

4. It has come to my attention that in a number of States project applications are being received involving greatly increased expenditures of Title I funds for clothing which, if approved, would jeopardize the basic nature of the Title I program. We are therefore considering what measures should be taken in this connection to assure the integrity of Title I as a compensatory education program for educationally deprived children. In order to avoid breach of assurances given by State and local educational agencies in this regard, State agencies should not approve any increase over previous years in the proportion of any LEA's Title I expenditures attributable to clothing.

T. H. Bell
Acting U. S. Commissioner of Education

Copies to: State Title I Coordinators, ESEA

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

OCT 5 1970

ESEA Title I Program Guide #60B
DCE/OB

MEMORANDUM TO CHIEF STATE SCHOOL OFFICERS

In paragraph 4 of Program Guide #60A, the Office of Education indicated that it was reviewing the use of Title I funds for clothing. This review considered the pattern of expenditures and numbers of children receiving clothing from Title I resources in the past. We have determined that the advice contained in paragraph 4 of Title I Program Guide #60A needs no longer be followed and that the data derived from this review may provide useful guidance for you in reviewing local project applications.

The data indicate that the range of the statewide average of per pupil expenditure was $1 to $29 for each child for whom clothing was provided. The national average per pupil expenditure for each child for whom clothing was provided was approximately $12. The number of children receiving clothing increased in 1969 by 126,000, from 165,000 in 1968 to 291,000 in 1969.

State educational agencies should consider these average per pupil expenditures for clothing and the increasing numbers of children who may need clothing.

Title I funds are limited and must be used to maximize the educational impact of the Title I program. The provision of clothing must be carefully evaluated in accordance with Program Guides #60 and #60A.

Each State educational agency must assure itself that these requirements are followed by careful monitoring of LEA programs.

T. H. Bell
Acting U.S. Commissioner of Education

Copies to: State Title I Coordinators, ESEA

TITLE I

TITLE I CLOTHING GRANTS FOUND TO IMPROVE STUDENT SELF-IMAGE AND SCHOOL ATTENDANCE

For some time proponents of the use of Title I money for clothing have been saying that sufficient quantities improve children's self-image and school attendance. This assertion is beginning to receive substantiation.

Last year, responding to the demands of the Rhode Island Fair Welfare Rights Organization (NWRO), Title I officials in Providence instituted a $96,000 Supplementary Clothing Grant (SCG) program. Providence is one of the first school districts in the country to use substantial amounts of Title I money for clothing. A recent study evaluating the results of the program give evidence that it is indeed fulfilling its objectives of improving children's self-image.

A study of the Providence Clothing Grant Program, conducted by members of the Brown University Sociology Department in cooperation with Title I parents, explored the attitudes of children and parents receiving the clothing grants under the Providence Title I program. The Brown sociologists reported that 96% of the children felt that poorly dressed children feel differently about going to school than well-dressed children ("inferior," "made fun of," or "left out"), and 88% felt that poorly-dressed children were treated differently by other children. A smaller percentage (63%) felt that teachers treated them differently because they were poorly-dressed, but 72% said that poorly-dressed children were likely to make lower grades than well-dressed children. The Brown study also reported that an overwhelming majority of children (84%) sometimes felt like not going to school because their clothes were poor, and 74% have actually stayed home for this reason.

The Brown study also found that parents' perceptions were similar to their children's. 78% of the parents felt that poorly-dressed children were treated differently by other children, and all felt that teachers treated poorly-dressed students differently. (Some parents also felt that a few teachers gave special attention to poorer children.) 70% of the parents reported that their children were sometimes reluctant to attend school or take part in school activities because of poor clothing. Although agreeing that clothing grants were helpful, all felt that the $48.00 per child allowance needed to be increased substantially "so that a greater positive effect on the children might be made." The Brown study concludes that Title I clothing grants should be continued, but with an increased allowance.

Preliminary results of another study of the relationship between a clothing program and absences have been released. The results show that recipients of clothing grants reduced their absences, compared to a matched control group which did not receive grants. Because some recipients also received other Title I services, some of which were designed to improve attendance, the contribution of clothing grants to absence reduction cannot be separated from the contribution of other Title I programs. *Inequality In Education* expects to publish complete findings of this study when the final report is released.

These studies should be useful evidence for other lawyers and community groups seeking clothing grants out of Title I funds. What was once an unverified assertion has become accepted as fact in Providence – and the superintendent of schools has agreed with Rhode Island Fair Welfare to extend the Title I Supplementary Clothing Grant Program for another year.

Bob Cohen

Reprinted from Inequality In Education,
Number Nine, August 3, 1971, page 35.

FREEDOM THROUGH EQUALITY, INC.
A CORPORATION DEDICATED TO LAW REFORM AND HOUSE COUNSEL FOR THE POOR
162 West Wisconsin Avenue • Suite 735 • Milwaukee, Wisconsin 53203 • Phone 414-271-7772

September 22, 1970

Pres., Board of Directors
Lloyd A. Barbee

Director
Robert Sugarman

Staff Attorneys
Richard M. Klein
Patricia D. McMahon
John Schupp
Eric Schulenburg
Steven H. Steinglass

John F. Ebbott
Sara Jean Bales

Mr. Richard P. Gousha
Milwaukee Superintendent of Schools
Administration Building
5225 West Vliet Street
Milwaukee, Wisconsin 53201

Dear Mr. Gousha:

Re: ESEA Title I 1970-71 School Clothing
Milwaukee Welfare Rights Organization

We have been retained to represent the Milwaukee Welfare Rights Organization (MWRO).

Enclosed please find a copy of the MWRO proposal for amendment of the ESEA Title I program for 1970-71 to include a school clothing component.

Very truly yours,

Richard M Klein
Richard M. Klein

cc: Mr. Thom
Mr. Nuhlicek

RMK/flp
Enc.

TO: MILWAUKEE BOARD OF SCHOOL DIRECTORS

FROM: MILWAUKEE WELFARE RIGHTS ORGANIZATION

DATE: September 22, 1970

RE: PROPOSAL FOR AMENDMENT OF 1970-71 ESEA TITLE I PROGRAM TO INCLUDE AUXILIARY SERVICE FOR PURCHASE OF SCHOOL CLOTHING FOR NEEDY CHILDREN

INTRODUCTION:

This is a proposal to amend the 1970-71 ESEA Title I program to include a component for the provision of school clothing to needy children. Both federal and state officials have approved the use of Title I funds for school clothing. The urgency of the clothing need among young children receiving AFDC, combined with the difficulty of obtaining prompt administrative action compels us to submit this proposal directly for your attention. Copies of this proposal were given to Superintendent Gousha, Mr. Thom, and Mr. Nuhlicek on September 22, 1970.

NEED:

This proposal is being submitted by the Milwaukee Welfare Rights Organization (MRWO), many of whose members receive AFDC and have children attending schools receiving Title I funds. As a result of the 1969 legislative cuts, persons receiving Aid to Families with Dependent Children (AFDC) cannot receive supplemental grants for the purchase of school clothing and their regular monetary checks provide less than 83% of what Wisconsin considers sufficient income to properly care for children.

The Milwaukee County Welfare Department and other agencies can verify that neither they nor private charities like the Salvation Army and St. Vincent de Paul Society have sufficient clothing available to meet the demands of fall and winter weather. Clothing banks in Title I schools are similarly exhausted. The used clothing drives of last winter produced some usable clothing, but few pairs of mittens, rubber boots, winter coats and raincoats.

Teachers and school social workers can document the effect of insufficient clothing on attendance and classroom performance.

SCOPE OF PROPOSAL:

Although this proposal is submitted by MWRO, we recognize that there may be equally needy children whose parents do not receive AFDC attending Title I schools. Likewise, there are AFDC recipients whose children need clothing but do not attend Title I schools.

We have confined this proposal to children receiving AFDC who attend Title I schools because such a limited proposal can be quickly approved and implemented, as illustrated by the action of the City of Madison. However, other needy non-AFDC children attending Title I schools should be eligible for school clothing, and we suggest that the school administration develop appropriate income eligibility standards.

EFFECT ON OTHER TITLE I PROGRAMS:

Precise estimation of the cost of school clothing for Title I schools or the effect of clothing expenditures on allocations for other Title I programs is beyond the scope of this paper. However, it is clear that without adequate clothing many of the intended beneficiaries of other Title I programs will either be unable to attend school or unable to effectively participate in Title I programs.

According to the minutes of the June 1, 1970, meeting of the Committee on Appointments and Instruction, unexpended 1969-70 Title I funds in Milwaukee were approximately $500,000 and federal fiscal accounting guidelines permit this money to be spent for 1970-71 Milwaukee school year. Given the desperate need of many Milwaukee families for adequate school clothing, and the apparent availability of Title I funds, prompt approval by this Board is reasonable and essential.

ADMINISTRATIVE ACTION:

On August 14, 1970, the United States Office of Education issued ESEA Title I Program Guide 60 which authorized the use of Title I funds for school clothing (Appendix A). On August 26, 1970, proposed standards for clothing allowances which had been submitted by Wisconsin State Superintendent William Kahl were substantially approved by the United States Office of Education (Appendices B, C, and D.). The City of

Madison has approved the use of Title I funds for school clothing.

On September 2, 1970, representatives from the Milwaukee Welfare Rights Organization met with several personnel of the Milwaukee School Administration including the Title I Coordinator, requested the use of Title I funds for school clothing, and offered whatever assistance would be necessary to expedite submission of such a proposal to the Milwaukee School Board. Despite several subsequent telephone conversations with the Title I Coordinator, Mr. Nuhlicek, stressing the need for urgency, no administrative action has apparently been taken toward implementation or even analysis of the feasability.

We request that the Milwaukee Board of School Directors approve the use of Title I funds for school clothing in Title I schools in principle, and direct the Milwaukee Superintendent of Schools to submit to them a proposal for school clothing in accordance with federal and state guidelines within 10 days. Unless there is prompt approval of our proposal, the actual purchase of school clothing before the cold weather of November cannot be assured.

APPENDIX "A"

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202
August 14, 1970

ESEA Title I Program Guide #60
DCE/OB

MEMORANDUM TO CHIEF STATE SCHOOL OFFICERS

Subject: Clothing as a Title I Auxiliary Service

Several inquiries have been made recently concerning the use of Title I funds to provide clothing for needy children of school age. I am concerned, as I know you are, that a lack of clothing may prevent needy Title I eligible children from receiving the benefits of a Title I program as well as the regular school program. Accordingly, we are summarizing established policies for such a Title I auxiliary service.

SEA's may approve applications for Title I programs which include a clothing component under the following circumstances:

1. The provision of clothing is a part of a comprehensive program designed to meet the special educational needs of educationally deprived children residing in eligible school attendance areas.

2. The clothing is provided to only those children who are participating in Title I educational activities.

3. Documentation is furnished that the provision of clothing is necessary for attendance at school.

4. Evidence is provided that all other resources for supportive services have been exhausted.

5. Provision is made for eligible children in public and nonpublic schools on a comparable basis.

6. Procedures are established whereby the effectiveness of the clothing component is evaluated.

7. The arrangments for the purchase of clothing are such to insure that the eligible children actually receive the clothing purchased with Title I funds.

Thomas J. Burns
Acting Associate Commissioner for
Elementary and Secondary Education

cc: State Title I Coordinators, ESEA

APPENDIX "B"

August 25, 1970

telegram

Dr. T. H. Bell
Acting U.S. Commissioner of Education
Dept. of Health, Education and Welfare
Office of Education
Washington, D.C. 20202

As a result of the August 14, 1970 ESEA Title I Program Guide No. 60 relating to clothing guidelines for Title I, ESEA, circumstances at this time require rapid action to include such criteria in approvable Title I programs for 1970-71. This is to advise you that in accordance with the criteria specified in the August 14 memo, the Wisconsin Department of Public Instruction will:

1. Approve applications for education programs and services which include programs which have clothing provisions in them for children who are participants.

2. Require that the school district certify that clothing is necessary for children to attend school. This assurance by local school districts may be based on such things as:

   a. Certification from local or state welfare departments
   b. Certification from personnel employed by school districts
   c. Certification of visiting health nurses
   d. An application of a parent validated by any one of the preceding three.

3. Require local school districts to provide the assurance that local, state and federal welfare programs have been exhausted.

4. Require that evaluation components designed by school districts include the clothing factor.

5. Require each local school district to be responsible for providing the assurances that children actually receive clothing. No direct payment for a clothing allowance to a parent or child will be approvable. Some other means of reimbursement to a vendor for clothing purchased will be required.

Unless advised to the contrary, we will start approving programs on the basis enumerated herein on August 28, 1970.

William C. Kahl
Wisconsin State Superintendent
of Public Instruction

APPENDIX "C"

telegram

S45P CDT AUG 26 70 MA249

CTA549 MM CT WA 341 AV GOVT NL PDB FW WASHINGTON DC 26

HON WILLIAM C KAHL, SUPT OF PUBLIC INSTRUCTION
STATE DEPT OF PUBLIC INSTRUCTION WISC HALL - 26
MADISON WIS

PROGRAM GUIDE NO. 60 WAS ISSUED TO REAFFIRM THAT TITLE I IS AN EDUCATIONAL PROGRAM, NOT A WELFARE PROGRAM, AND TO RESTATE THE POLICY WITH RESPECT TO THE PROVISION OF CLOTHING UNDER CERTAIN RESTRICTED SITUATIONS FROM TITLE I FUNDS. IT WAS NOT INTENDED TO BE USED AS ENCOURAGING THE INCLUSION OF A CLOTHING COMPONENT IN ALL TITLE I PROGRAMS. ALL REQUIREMENTS WITH RESPECT TO THE REGULATIONS AND THE COMMISSIONER'S CRITERIA FOR STATE APPROVAL OF TITLE I PROGRAMS REMAIN IN EFFECT. I RECOMMEND THAT THE CRITERIA RELATING TO A CLOTHING COMPONENT OF A TITLE I EDUCATIONAL PROGRAM INCLUDED IN YOUR TELEGRAM OF AUGUST 25 1970 BE AMENDED TO REFLECT THE FOLLOWING: ITEMS 1 AND 2 SHOULD REQUIRE THAT THE LOCAL EDUCATIONAL AGENCY FURNISH EVIDENCE THAT THE CHILDREN PARTICIPATING IN A TITLE I EDUCATIONAL PROGRAM NEED CLOTHING IN ORDER TO ATTEND SCHOOL OR FOR THE EFFECTIVE PARTICIPATION IN AN OTHERWISE APPROVABLE TITLE I PROJECT. THIS DETERMINATION MUST BE MADE ON THE BASIS OF ATTENDANCE RECORDS, AND TEACHER OR OTHER SCHOOL PERSONNEL RECOMMENDATION, IN NO CASE CAN THE LOCAL EDUCATIONAL AGENCY ACCEPT A BLANKET STATEMENT AS TO THE INADEQUACY OF WELFARE PAYMENTS FROM A LOCAL OR STATE WELFARE AGENCY AS SUFFICIENT EVIDENCE THAT CLOTHING IS REQUIRED FOR ELIGIBLE CHILDREN TO ATTEND SCHOOL; ITEM NO. 3 AND 4 ARE ACCEPTABLE; ITEM NO. 5 MUST BE REVISED TO REQUIRE THE LOCAL EDUCATIONAL AGENCY TO DEMONSTRATE THE MANNER IN WHICH THE ELIGIBLE CHILDREN WILL RECEIVE THE CLOTHING RATHER THAN A SIMPLE ASSURANCE TO THAT EFFECT. THE STATE CRITERIA MUST INCLUDE ITEM NO. 5

APPENDIX "C"

OF PROGRAM GUIDE NO. 60 WITH RESPECT TO PRIVATE SCHOOL CHILDREN. WHILE THE PROVISION OF CLOTHING FOR CHILDREN PARTICIPATING IN TITLE I EDUCATIONAL PROGRAMS IS AN ALLOWABLE EXPENDITURE UNDER THE CONDITIONS SPELLED OUT IN PROGRAM GUIDE NO. 60 THIS DOES NOT MEAN THAT A CLOTHING COMPONENT IS AUTOMATICALLY TO BE MADE A PART OF ALL TITLE I PROGRAMS IN ALL LOCAL EDUCATIONAL AGENCIES OF THE STATE. IN NO CASE DOES PROGRAM GUIDE NO. 60 AUTHORIZE A PREDETERMINED AMOUNT AS A CLOTHING ALLOWANCE FOR EACH CHILD

THOMAS J. BURNS ACTING ASSOCIATE COMMISSIONER OF ELEMENTARY AND SECONDARY EDUCATION US OFFICE OF EDUCATION

Local News, Women's Pages,
Business and Sports News

THE MILWAUKEE

* * * *

Friday, August 28, 197

US School Funds OK for Clothes

Journal Madison Bureau

Madison, Wis. – Federal school aid funds can be used to buy clothing for poor children if local school districts meet federal standards, Archie A. Buchmiller, deputy state superintendent of public instruction, said Thursday.

To qualify, local school districts will have to apply for clothing grants and set up machinery to determine each child's clothing needs, Buchmiller said.

The funds would be available under the five year old program providing federal money for special teaching aids for educationally disadvantaged urban and rural low income pupils. The US Office of Education announced two weeks ago that children would be eligible for clothing if it was essential for them to attend school and participate in the program.

About 100 welfare mothers, more than half from Milwaukee, had met Monday with state officials to demand clothing allowances. William Kahl, state superintendent of public instruction, submitted proposed state standards for clothing allowances to the federal agency the day after the mother's visit.

The federal agency Thursday approved the Wisconsin proposal with some modifications. Approval means that individual school districts may apply for clothing funds as a component of programs for the educationally disadvantaged, but must set up procedures to determine need for clothing on an individual basis, Buchmiller said. School board approval will be required for applications, he said.

Kahl had proposed that blanket certification of groups of children by public welfare agencies, nurses or school districts be accepted in determining need. However, the federal office ruled that the determination must be made by local

"In no case can the local ed-

Turn to Clothes, page 12, col. 5

THE MILWAUKEE JOURNAL

Clothes

From page 1

ucational agency accept a blanket statement as to the inadequacy of welfare payments from a local or state welfare agency as sufficient evidence that clothing is required to attend school," Thomas J. Burns, acting associate commissioner of elementary and secondary education for the federal agency, said in a telegram to Kahl.

The state guidelines, as approved by the federal agency, also require that payment be made directly to the clothing vendor, not to a child's parents.

Wisconsin has received about $14 million a year under the special program for the educationally disadvantaged. The state's appropriation this year is expected to increase $19 million. Milwaukee will receive $3 million of this amount.

The guidelines do not set a dollar limit on how much of the grant could be used for clothing.

However, the Office of Education, in announcing the children's clothing policy, had emphasized that money was to be used only for absolute essentials and that the federal program was an educational, not a welfare, effort.

"Every child would probably like and could use more clothes, but we must distinguish between what is desirable and what is essential," said Terrel H. Bell, acting US education commissioner.

November 6, 1970

COPY

Mr. William C. Kahl
State Superintendent
Department of Public Instruction
126 Langdon Street
Madison, Wisconsin 53702

Dear Mr. Kahl:

Pursuant to U. S. Office of Education Program Guides 60, 60A, and 60B, which spell out the conditions under which Local Educational Agencies may amend their 1970-1971 Title I Programs to include a clothing provision for children participating in Title I educational programs, the Milwaukee Board of School Directors, through action taken on November 4, 1970, passed the following motion:

"That the Title I authorization which the Board approved some time ago be amended to provide the sum of $50,000 for supplying emergency clothing needs of Title I pupils, subject, however, to the following considerations:

1. That the Board is legally able to contract with the Welfare Department for the administration of such a program to take care of emergency clothing needs.

2. That the Welfare Department with its consent and acceptance is to abide by the law and the guidelines obtaining.

3. That, subject to initial consideration, this $50,000 is to include an administration cost which in all likelihood will be incurred under a contract with the Welfare Department for the administration of this program.

4. That if the guidelines at any time change making it impossible to commence the program or give effect to the contract with the Welfare Department, or, if started, the guidelines change and the pursuit of the program may not legally be continued, then any unspent funds in the hands of the Welfare Department, after subtraction of their administration costs, be returned to the Board for its use in the pursuit of other educational programs under Title I programs in accordance with the guidelines.

5. That in the event there is a need, in the course of the administration of this program, for additional funds, those funds shall be secured, not from the Title I funds or from the School Board, but from BOGO."

The multifaceted nature of this Board action raises several questions regarding the legal authority of the Local Education Agency in the administration of Title I funds designated for the purchase of clothing. We are requesting an interpretation of the following questions from your office, prior to any subsequent steps toward preparing any program proposal amendment:

— In an attempt to prevent the Milwaukee Public School System from developing a dual and conflicting system of administering welfare type services within the community, may the Board of School Directors, within the present U. S. Office of Education guidelines contract with an outside agency to administer a component of the Title I program?

— Specifically, may the Board of School Directors contract with the Department of Public Welfare to administer a Title I clothing component which would acceptably meet the criteria established within U. S. Office of Education guidelines 60, 60A, 60B, and subsequent State Department of Public Instruction statement of policy regarding the purchase of clothing as a Title I auxiliary service?

— If it is within the present limits of federal guidelines and state policy to contract the administration of a Title I clothing component with the Department of Public Welfare, are points 3, 4, and 5 of the Board motion within the present policy interpretation established by the State Department of Public Instruction?

Receiving legal and policy interpretations regarding these questions is particularly important for the implications they hold for any development of a Title I clothing proposal as part of the Milwaukee Public Schools' Title I Program. Assuredly, local groups which pressed for the Board action are going to press for early implementation. The extent to which your response to our questions can be expedited will be appreciated.

If we can be of further assistance in clarifying the intent of these questions or the circumstances within which they have arisen, please contact my office.

Sincerely,

RICHARD P. GOUSHA
Superintendent

Dwight Teel
Deputy Superintendent

T/pk

cc: Mr. Carl Kinnel, Dr. Archie Buchmiller, Mr. Frank Brown, Mr. Carl Thom,
Mr. Allan Nuhlicek

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
William C. Kahl, State Superintendent / Archie A. Buchmiller, Deputy State Superintendent 126 Langdon Street, Wisconsin Hall, Madison, Wisconsin 53702

November 16, 1970

Dr. Thomas J. Burns
Acting Commissioner for Elementary
and Secondary Education
Department of Health, Education, and Welfare
Office of Education
Washington, D.C. 20202

Dear Dr. Burns:

The Milwaukee Public Schools has submitted a resolution to the Department of Public Instruction in regard to the issuance of clothing under Title I of the Elementary and Secondary Education Act of 1965. The entire substance of this resolution reads as follows:

> "That the Title I authorization which the Board approved some time ago be amended to provide the sum of $50,000 for supplying emergency clothing needs of Title I pupils, subject, however, to the following considerations:
>
> 1. That the Board is legally able to contract with the Welfare Department for the administration of such a program to take care of emergency clothing needs.
>
> 2. That the Welfare Department with its consent and acceptance is to abide by the law and the guidelines obtaining.
>
> 3. That, subject to initial consideration, this $50,000 is to include an administration cost which in all likelihood will be incurred under a contract with the Welfare Department for the administration of this program.
>
> 4. That if the guidelines at any time change making it impossible to commence the program or give effect to the contract with the Welfare Department, or, if started, the guidelines change and the pursuit of the program may not legally be continued, then any unspent funds in the hands of the Welfare Department, after subtraction of their administration costs, be returned to the Board for its use in the pursuit of other educational programs under Title I programs in accordance with the guidelines.
>
> 5. That in the event there is a need, in the course of the administration of this program, for additional funds, those funds shall be secured, not from the Title I funds or from the School Board, but from BOCO."

In addition, they have presented us with three questions which are:

- -- In an attempt to prevent the Milwaukee Public School System from developing a dual and conflicting system of administering welfare type services within the community, may the Board of School Directors, within the present U.S. Office of Education guidelines contract with an outside agency to administer a component of the Title I program?

- -- Specifically, may the Board of School Directors contract with the Department of Public Welfare to administer a Title I clothing component which would acceptably meet the criteria established within U.S. Office of Education guidelines 60, 60A, 60B, and subsequent State Department of Public Instruction statement of policy regarding the purchase of clothing as a Title I auxiliary service?

- -- If it is within the present limits of federal guidelines and state policy to contract the administration of a Title I clothing component with the Department of Public Welfare, are points 3, 4, and 5 of the Board motion within the present policy interpretation established by the State Department of Public Instruction?

In formulating our reply to the Milwaukee Public Schools, I am persuaded that there is a good deal of merit in their proposition that to establish a welfare-type investigating service from the Milwaukee Public Schools in regard to ESEA Title I clothing eligibility would, in fact, be duplicating the investigative and administrative capability which now exists in welfare agencies which have long dealt with problems of this type.

Therefore I am persuaded to strongly consider the approval of an application from the Milwaukee Public Schools which would contract with the Milwaukee Welfare Department. Such power is implied in the Wisconsin school statutes under Section 120.13 (3) AGREEMENTS WITH GOVERNMENTAL UNITS which reads as follows:

> "120.13 School board powers.
> (3) AGREEMENTS WITH GOVERNMENTAL UNITS. Enter into agreements, including leases for a term not exceeding 50 years, with a school district, city, village, town, county or the state or any department or agency thereof for the purchase, operation and maintenance of land, buildings and equipment for educational purposes, including, without limitation because of enumeration, contracts for the construction or repair of school driveways, roadways and parking areas or for the operation of any school program authorized by law."

Before taking any final action on or about November 30, 1970 in respect to these questions and their Title I application, I am submitting these same issues to you for your recommendations and ruling as to whether or not you would find such arrangements within the authority of the state agency so to approve.

I shall be looking forward to your reply.

Sincerely,

William C. Kahl
State Superintendent

WCK:js

cc: Richard L. Fairley, Acting Director
Division of Compensatory Education
Dept. of Health, Education, and Welfare
Washington, D.C. 20202

bcc: Robert Van Raalte
Frank Brown
Max Ashwill

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
William C. Kahl, State Superintendent / Archie A. Buchmiller, Deputy State Superintendent 126 Langdon Street, Wisconsin Hall, Madison, Wisconsin 53702

December 1, 1970

Dr. Richard P. Gousha
Superintendent
Milwaukee Public Schools
P.O. Drawer 10k
Milwaukee, Wisconsin 53201

Dear Dr. Gousha:

This letter is in response to your communication dated November 6, 1970 wherein you inquired about the feasibility of contracting with an "outside or welfare" agency to administer Title I clothing provisions for the Milwaukee Public Schools. We had referred your questions to the U.S. Office of Education and received a reply from them dated November 19, 1970 (see Appendix A) which makes it possible for us to reply to your questions with greater confidence.

The following provisions apply to the three questions raised on page 2 of your letter.

The Milwaukee Public Schools may contract with an "outside or welfare" agency for the administration of a Title I program clothing component subject to the following conditions:

1. The school district has the responsibility to identify all children (public and nonpublic) participating in Title I programs, and, secondly, the school district must identify the children (public and nonpublic) from this population who need clothing in order to attend school and/or participate in Title I programs.

2. The assurances according to ESEA Title I Program Guides 60, 60A and 60B must be fulfilled. Briefly, the main provisions of these bulletins are:

    a. No cash allowance for clothing may be made or paid to any child, parent or guardian.

    b. Assurances must be provided that the need for clothing for individual children to attend school or participate in Title I programs is documented and that children do receive needed clothing.

    c. No other sources of financial support are available for the purchase of clothing.

d. The provision of a clothing component in a Title I program shall be evaluated as to its effectiveness as part of an educational program.

e. There can be no predetermined flat rate allocation for clothing made per child.

f. The local school district should consider the average clothing cost factors enumerated in Program Guide 60B.

3. Any contract between the "outside or welfare" agency and the Milwaukee Public Schools must include explicit conditions in respect to:

   a. How the agency will confirm the need of eligible children which are certified to them by the public school district as eligible for clothing.

   b. The identification of clothing needs of individual eligible children.

   c. The procedure by which the purchase and delivery of clothing to children, parents or guardians is authorized.

   d. The method by which the agency will make payments to vendors for clothing received by children, parents or guardians.

   e. The kind of records and reports which are to be maintained and reported to the Milwaukee Board of School Directors.

It should be noted that any allocation by the Milwaukee Public Schools to an "outside or welfare" agency may not exceed the actual payment and cost for administering a clothing program under a contract with the Milwaukee Public Schools. Any funds that remain unspent must be returned to the Milwaukee school board.

The Wisconsin Department of Public Instruction can make no commitment which will cause any other public agency to become obligated to make payments for the purchase of clothing beyond the funds that may be allocated from Title I by the Milwaukee Public Schools. Therefore point 5 on page 2 of your letter is not germane and within the scope of the authority of the Department of Public Instruction.

Sincerely,

William C. Kahl

William C. Kahl
State Superintendent

WCK:js
Enc.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C.

NOV 19 1970

Honorable William C. Kahl
Superintendent of Public Instruction
State Department of Public Instruction
Wisconsin Hall
126 Langdon Street
Madison, Wisconsin 53702

Dear Superintendent Kahl:

Thank you for your recent telegram and letter concerning an application under Title I of the Elementary and Secondary Education Act which your office received from the Milwaukee Public Schools. Specifically, you asked for advice concerning the resolution of the Board of Education of the city of Milwaukee authorizing the use of Title I funds for clothing to be provided through the Milwaukee Welfare Department.

An arrangement with another public agency for the delivery of a Title I service may be included in the program of a local educational agency. Such arrangements should be made, however, on the basis of a formal agreement which sets forth the exact nature and scope of the services to be performed by the Welfare Department and clearly recognizes the responsibility of the local educational agency to carry out the Title I project in accordance with all applicable requirements. There are a number of provisions in Program Guides #60, 60A, and 60B which require the active participation of the local educational agency. That agency and not the public welfare department should take the major responsibility to insure the proper identification of children who are participating in the Title I program, and who in order to fully realize the benefits of that program, may need to be provided with clothing. The confirmation of the need for clothing and the actual delivery to the children could be carried out by the Welfare Department. I would emphasize, however, that cash payments to the parents of the children are not to be permitted.

I trust the foregoing information will be of assistance to you and will enable your agency to make the necessary decisions concerning this aspect of the Title I program for Milwaukee.

Sincerely yours,

Thomas J. Burns

Thomas J. Burns
Acting Associate Commissioner for
Elementary and Secondary Education

MILWAUKEE PUBLIC SCHOOLS
DIVISION OF ADMINISTRATIVE AND PUPIL PERSONNEL SERVICES
Department of School Social Work Services

TITLE I ESEA CLOTHING PROJECT - 1970-1971

Analysis of needs and program activities for the current school year, 1970-1971.

I. Grade Levels of Children to be Involved

A. Title I ESEA clothing services will be made available to children who are receiving Title I services at the pre-school, early elementary, later elementary and secondary levels. (See Appendix A - List of Schools)

B. The children who will be involved in this program will range from 4 years through 18 years of age.

The grade levels encompassed will include pre-school through twelfth grade.

II. Program for 1970-1971

A. Analysis of Needs of Project Children

Student Educational Needs

The lack of adequate clothing necessary to attend school or to participate in such a way as to receive the full benefits of Title I ESEA projects and services accentuates the already existing academic deficits that these children have as well as increases their personal feelings of inadequacy which significantly affect motivation to achieve.

The experiences of school social workers involved with school attendance problems reveal that certain children are not attending school due to the lack of adequate clothing resulting from the parents' limited income.

Teachers and school administrators have, in their referrals for school social work services, indicated concern as to the child's lack of adequate clothing as being a factor in school absences and in the child's self-concept as this relates to his academic motivation and classroom relationships.

Title I ESEA target area schools are located in areas of high concentration of low income families and public assistance recipients. Families with marginal incomes or those who are receiving public assistance funds have been most adversely affected by the increased cost of living.

The 1970 Wisconsin State Legislative enactments, which reduced public assistance grants and made no provisions for meeting special clothing needs of public assistance recipients, have resulted in the Milwaukee County Department of Public Welfare being unable to meet emergency clothing needs within the community.

Community social agencies that normally help meet the material needs of indigent families have provided documentation that they are unable to provide necessary children's clothing. (See Appendix B - Documentation of Depletion of Community Resources)

Since the local social service agencies are unable to provide needed clothing to insure school attendance and program participation of Title I ESEA children, Title I guidelines do allow for the provision of clothing to meet emergency needs as a supplementary service.

B. Description of Goals, Objectives, and Instructional Activities to be Provided for Participating Project Area Children

1. Goals

The major educational goal for this clothing project will be focused upon improving the student's motivation to achieve which will result in improved school attendance.

2. Behavioral Objectives

Recognizing that the lack of adequate clothing affects school attendance along with the development of poor school attitudes, the behavioral objectives are as follows:

OBJECTIVE	MEASURED BY	ADMINISTERED BY	SAMPLE	DATE OF COLLECTION
a) Pupils for whom clothing is purchased will attend school more often during the 40 school days after the date of purchase on the voucher than the 40 days before the voucher purchase date.	Days of school attendance.	School Personnel	All Project Pupils.	May, 1971
b) 70% of the teachers of children for whom clothing is purchased will reply to a questionnaire stating that the clothing purchased was responsible for their pupil's improved self-image and improved attitude toward school.	Locally designed survey for teachers.	Department of Educational Research and Program Assessment	All Project Pupils.	End of March, 1971

C. Project Activities and Procedures Related to Federal Guidelines

1. Definition of Title I ESEA Project Participants as outlined in Title I ESEA Program Guide #60:

Guidelines

— The provision of clothing is part of a comprehensive program designed to meet the special educational needs of educationally deprived children residing in eligible school attendance areas.

-- The clothing is provided only to those children who are participating in Title I ESEA educational activities.

Children in the following Title I ESEA projects will be eligible for clothing consideration based upon an individual analysis of need:

Pre-School Planning and Pilot Project - when implemented
Special Kindergarten Project
Language Development Project
Reading Center Project
English as a Second Language Project
Bilingual Project
Elementary Guidance Project
Psychological Services Project
Social Work Services Project
Special Educational and Service Centers
Adapted Recreation for Handicapped Children Project
Pre-School Early Elementary Developmental Activity Project
Returnee Counselor Project
Secondary Instructional Learning Centers
Secondary Mathematics Project
Fulton Jr. High School Reading Center Project

2. Procedure and role of school personnel identifying and referring Title I ESEA children who have clothing needs:

Guidelines

- Documentation is furnished that the provision of clothing is necessary for attendance at school.

- Provision is made for eligible children in public and non-public schools on a comparable basis.

  a. Any school staff member may refer a Title I ESEA child for clothing where there is evidence of an emergency need for clothing and that this need adversely affects the child's ability to participate effectively in the Title I Program.

  b. The referring staff member shall complete a School Social Worker Referral Form (384) stating the basis for referral (need for clothing as related to effective participation in the Title I Program).
  (See Appendix C - School Social Work Referral Form)

  c. The referral shall be submitted to the following personnel who shall verify that the child referred is a Title I participant and corroborate that the lack of clothing is detrimental to the child's educational progress.

  - Elementary Schools - Assistant principal-Title I coordinator in close conjunction with principal.

  - Secondary Schools - Guidance counselor-Title I coordinator in close conjunction with principal.

  - Non-Public Schools - School administrator.

  d. The school social worker receiving the referral signed by the administrator will then arrange to discuss with the parent the confirmation of the need for clothing and the procedure that would be followed to obtain the clothing.

e. The social worker upon confirming the need for clothing will then initiate a referral (stating the particular items of clothing needed) to the Milwaukee County Department of Public Welfare (utilizing DPW Trust Fund Referral Form) requesting its services in obtaining clothing for the child.
(See Appendix D - DPW Trust Fund Form)

f. The school social worker will, on the referral form (384), report back to the school his activity and disposition of the school's referral.

3. Role of Milwaukee County Department of Public Welfare

a. The Milwaukee County Department of Public Welfare will arrange for the issuance of vouchers to be used by the parent to purchase the specified clothing.

b. All cases, public assistance and non-public assistance cases, will be referred to Mr. Richard Piskula, Assistant Supervisor, Social Services, who will arrange for the processing of these referrals.

4. Mutual Fiscal Accountability, Milwaukee Public Schools, and the Milwaukee County Department of Public Welfare.
(See Appendix E - Memo of Understanding)

a. The Milwaukee Public Schools will advance to the Department of Public Welfare, $50,000 to be used for the Title I ESEA Clothing Project.

b. The Department of Public Welfare will issue a voucher to the parent of the child who is eligible for clothing, specifying the names of the eligible children and the clothing required. The voucher will be submitted to clothing vendors who will so honor them.
(See Appendix F - Department of Public Welfare Voucher)
(See Appendix G - Documentation for Establishing Per Pupil Clothing Expenditure and Milwaukee County Department of Public Welfare Special Clothing Needs Inventory.

c. The clothing vendor will return a copy of the voucher with the signature of the parent acknowledging receipt of the merchandise and receipted bill to the Department of Public Welfare.

d. The Department of Public Welfare will make payment to the clothing vendor from the cash advance that was made by the Milwaukee Public Schools.

e. The Department of Public Welfare will submit to the Accounting Division of the Milwaukee Public Schools a certified voucher and receipted bills for clothing delivered and paid for.

f. The Accounting Division will submit the normal reimbursement forms required under the Title I ESEA Program and forward same to the Department of Public Instruction at Madison, Wisconsin for reimbursement to the Milwaukee Public Schools for monies advanced to the Department of Public Welfare.

g. A budget revision encompassing the $50,000 for the supportive clothing component will be submitted upon receipt of the 1970-1971 Title I ESEA final allocation by the Milwaukee Public Schools. The $50,000 will be placed in State account 5190, "community services - other" and commensurate revisions will be made in all other effected budget line items.

5. Administrative costs projected by Milwaukee County Department of Public Welfare.
(See Appendix H - Statement of Administrative Costs)

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Appendix A

MILWAUKEE PUBLIC SCHOOLS - OFFICE OF THE DEPUTY SUPERINTENDENT

TARGET AREA SCHOOLS - TITLE I ESEA

1970 - 1971

Public Schools

SCHOOL

Senior High

Lincoln
North Division
South Division
West Division

Junior High

Fulton
Kosciuszko
Roosevelt
Wells Street

Elementary

Allen Field
Auer Avenue
Berger
Brown Street
Clarke Street
Elm
Fifth Street
Forest Home Avenue
Fourth Street
Garfield Avenue
Holmes
Hopkins Street
Kilbourn
LaFollette
Lee
Lloyd Street
MacDowell
McKinley
Meinecke
Ninth Street
Palmer
Siefert
Twelfth Street
Twentieth Street
Twenty-first Street
Vieau
Walnut Street

Non-Public Schools

SCHOOL

Bethlehem
Boniface Community
Bruce Guadalupe Community
Emmaus
Francis Community
Holy Ghost
Leo Community
Martin Luther King Community
Michael Community
St. Stanislaus
St. Stephen
Sharon Seventh-Day Adventist
Urban Day

Appendix B

DEPARTMENT OF PUBLIC WELFARE
Milwaukee County

JOSEPH E. BALDWIN • Director
ARTHUR SILVERMAN • Deputy Director

December 17, 1970

Mr. Orrin E. Wang, Director
School Social Work Services
Division of Pupil Personnel
5225 West Vliet St. P.O. drawer 10k
Milwaukee, Wisconsin 53201

Dear Mr. Wang,

As per our discussion relating to the Title I ESEA clothing project 1970-1971, I am submitting this report regarding the availability of clothing from community social agencies.

As a result of legislation which went into effect in November of 1969, the Milwaukee County Department of Public Welfare is unable to meet emergency clothing needs due to the fact that this agency can no longer provide special needs for AFDC and General Relief clients outside of the regular grant. The implementation of this mandate resulted in the Department of Public Welfare turning to other community resources, primarily the Society of Saint Vincent de Paul, the Salvation Army and Inner City Development clothing bank.

In a short period of time Saint Vincent de Paul, Salvation Army and Inner City Development clothing bank informed the agency that their clothing supplies were rapidly being depleted. As of this date, Saint Vincent de Paul will accept only ten referrals per week from the Milwaukee County Department of Public Welfare. Salvation Army has requested that we not refer any clients to them for clothing. The Inner City Development clothing bank has also informed this agency that no clothing is available for distribution.

In summation, the Department of Public Welfare and other resources in the community are unable to meet the total clothing needs of indigent families. Should you need further documentation regarding this matter, I have available in my files letters, memos and other correspondence which would verify the above statements.

Sincerely,

R. P. Piskula

Richard P. Piskula, ACSW
Assistant Division Supervisor
Family & Children's Service Division

cc: Mr. Ramminger
Mr. O'Brien

RPP/mje

1220 WEST VLIET STREET • MILWAUKEE, WISCONSIN 53205 • TELEPHONE 344-6400

Appendix C

ACCURATE BUSINESS FORMS CO., INC., MILWAUKEE, WIS.

SCHOOL SOCIAL WORK REFERRAL BLANK

AME ____________ LAST ____________ FIRST ____ SCHOOL ____________ SEX ______ BIRTH DATE ____________

DDRESS ____________ ZONE ______ PHONE ____________ GRADE ______ TEACHER ____________

ATHER ____________ ADDRESS ____________ WHERE EMPLOYED ____________

OTHER ____________ ADDRESS ____________ GUARDIAN OR STEP-PARENT ____________

MERGENCY CONTACT ____________ ADDRESS ____________ PHONE ____________

BLINGS	AGE	SCHOOL AND GRADE	PROFILE	
			INTELLIGENCE	
			ACHIEVEMENT	
			SOCIAL	
			PHYSICAL	
			OTHER	

TATEMENT OF PROBLEM: INCLUDE REASON FOR REFERRAL, ATTEMPTS BY SCHOOL TO SOLVE PROBLEM AND ATTENDANCE

EFERRED BY ____________ SIGNATURE ____________ PRINCIPAL DATE ____________

* * * * * * * * * * * * * *

ATE ____________ **REPORT TO SCHOOL** SOCIAL WORKER ____________

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Appendix D

INSTRUCTIONS TO SENDER
1. DETACH YELLOW COPY
2. SEND WHITE AND PINK PARTS WITH CARBON TO PERSON ADDRESSED.

INSTRUCTIONS TO RECIPIENT
1. WRITE REPLY AT BOTTOM.
2. DETACH STUB, [illegible] WHITE [illegible] RETURN PINK COPY TO SENDER.

REPLY MESSAGE [illegible]

To

From

SUBJECT

DATE

Reply Message

FOLD

MESSAGE

SIGNED

REPLY

DATE OF REPLY

REPLY TO

SIGNED

RECIPIENT

DETACH AND FILE FOR FOLLOW-UP

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Appendix E

MEMO OF MUTUAL UNDERSTANDING AND AGREEMENT
TITLE I ESEA CLOTHING PROJECT - 1970-1971

The Board of School Directors acted to amend the 1970-1971 Title I ESEA Program on November 4, 1970 to include a Title I clothing component. This amendment was predicated on the basis that the Board of School Directors could legally contract with the Milwaukee County Department of Public Welfare for the administration of such a program. The Milwaukee Public Schools in relation to the Title I ESEA Clothing Project will be responsible for the following major areas of project implementation:

1. The identification of pupils participating in intensive Title I projects and services.

2. The identification of individual children who show evidence of an emergency need for clothing and the corroboration that this need adversely affects the child's ability to participate effectively in the Title I Program.

3. The initiation of referrals stating the particular items of clothing needed for each individual to the Milwaukee County Department of Public Welfare.

4. The development of an evaluation design to measure the effectiveness of the Title I ESEA Clothing Project.

The Milwaukee County Department of Public Welfare will be responsible for the following major area of project implementation:

1. The processing of clothing referrals received from the Milwaukee Public Schools as part of the Title I ESEA Clothing Project, including the certification that all other resources for supportive services have been exhausted.

The Milwaukee Public Schools and the Milwaukee County Department of Public Welfare will share mutual fiscal and administrative accountability in the following major areas of project implementation:

1. The Milwaukee Public Schools will advance to the Department of Public Welfare $50,000 to be used for the Title I ESEA Clothing Project.

2. The Department of Public Welfare will issue a voucher to the parent of the child who is eligible for clothing, specifying the names of the eligible children and the clothing required. The voucher will be submitted to clothing vendors who will so honor them.

3. The clothing vendor will return a copy of the voucher with the signature of the parent acknowledging receipt of the merchandise and receipted bill to the Department of Public Welfare.

4. The Department of Public Welfare will make payment to the clothing vendor from the cash advance that was made by the Milwaukee Public Schools.

5. The Department of Public Welfare will submit to the Accounting Division of the Milwaukee Public Schools a copy of the certified voucher along with receipted bills for clothing delivered and paid for.

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6. The Accounting Division will submit the normal reimbursement forms required under the Title I ESEA Program and forward same to the Department of Public Instruction at Madison, Wisconsin for the reimbursement to the Milwaukee Public Schools for monies advanced to the Department of Public Welfare.

Administrative costs designated by Milwaukee County Department of Public Welfare for Title I Clothing Project implementation.

Clerical manpower to issue and control vouchers	$ 1,330.00
Cost of vouchers	25.00
Clerical manpower to issue and control checks	350.00
Cost of checks	7.00
Mailing charges for vouchers and checks	180.00
Cost of envelopes	8.00
Clerical manpower to liaison between School Board - DPW Caseworker Staff - DPW Administrative Services	100.00
	$ 2,000.00

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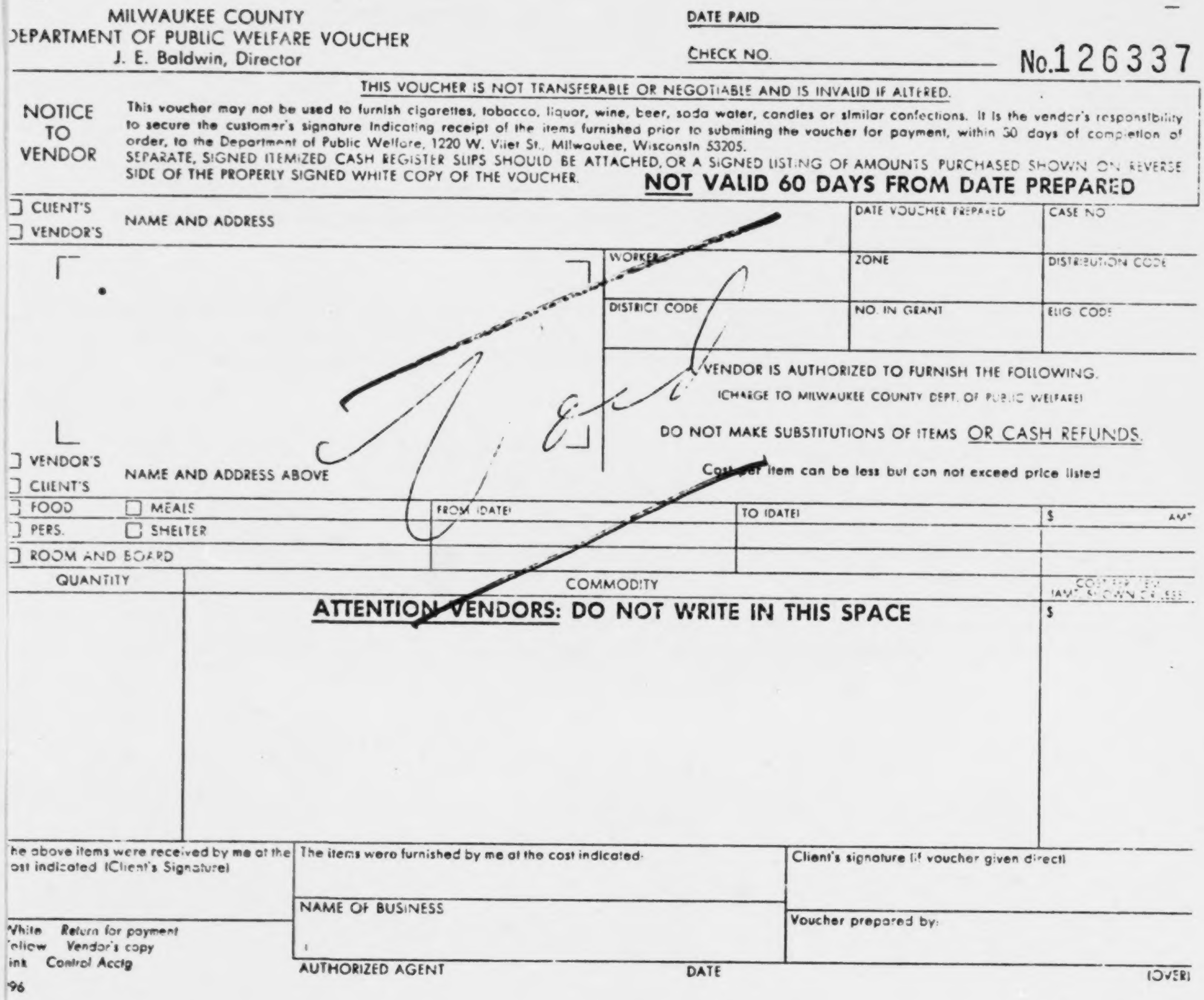
Appendix F



MILWAUKEE COUNTY
DEPARTMENT OF PUBLIC WELFARE VOUCHER
J. E. Baldwin, Director

DATE PAID ______________

CHECK NO. ______________

No.126337

THIS VOUCHER IS NOT TRANSFERABLE OR NEGOTIABLE AND IS INVALID IF ALTERED.

NOTICE TO VENDOR This voucher may not be used to furnish cigarettes, tobacco, liquor, wine, beer, soda water, candies or similar confections. It is the vendor's responsibility to secure the customer's signature indicating receipt of the items furnished prior to submitting the voucher for payment, within 30 days of completion of order, to the Department of Public Welfare, 1220 W. Vliet St., Milwaukee, Wisconsin 53205.
SEPARATE, SIGNED ITEMIZED CASH REGISTER SLIPS SHOULD BE ATTACHED, OR A SIGNED LISTING OF AMOUNTS PURCHASED SHOWN ON REVERSE SIDE OF THE PROPERLY SIGNED WHITE COPY OF THE VOUCHER.

NOT VALID 60 DAYS FROM DATE PREPARED

☐ CLIENT'S
☐ VENDOR'S
NAME AND ADDRESS

	DATE VOUCHER PREPARED	CASE NO
WORKER	ZONE	DISTRIBUTION CODE
DISTRICT CODE	NO. IN GRANT	ELIG. CODE

Void

VENDOR IS AUTHORIZED TO FURNISH THE FOLLOWING.
(CHARGE TO MILWAUKEE COUNTY DEPT. OF PUBLIC WELFARE)

DO NOT MAKE SUBSTITUTIONS OF ITEMS OR CASH REFUNDS.

Cost per item can be less but can not exceed price listed

☐ VENDOR'S
☐ CLIENT'S
NAME AND ADDRESS ABOVE

☐ FOOD	☐ MEALS	FROM (DATE)	TO (DATE)	$ AMT
☐ PERS.	☐ SHELTER			
☐ ROOM AND BOARD				

QUANTITY	COMMODITY	COST PER ITEM (AMT. SHOWN OR LESS)
	ATTENTION VENDORS: DO NOT WRITE IN THIS SPACE	$

he above items were received by me at the ost indicated (Client's Signature)	The items were furnished by me at the cost indicated	Client's signature (if voucher given direct)
	NAME OF BUSINESS	Voucher prepared by:

AUTHORIZED AGENT DATE (OVER)

Vhite *Return for payment*
'ellow *Vendor's copy*
ink *Control Acctg*
96

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DOCUMENTATION FOR ESTABLISHING PER PUPIL CLOTHING EXPENDITURE

Although it is recognized that the national average for pupil clothing expenditure for Title I children is $12.00, several factors necessitate consideration of a higher average, approximately $30.00 per pupil, within the Milwaukee Public Schools Title I clothing component.

1. Over a 30 year period, Milwaukee had a mean temperature of 22°F for January and 23°F for February. The average seasonal snowfall was 40-49.9 inches, causing Milwaukee to fall within the lower confines of the temperature spectrum when calculating a national average.

2. The cost of clothing in a large urban area such as Milwaukee is extremely high. It is necessary to base the average per pupil expenditure on the individual needs of children taking into consideration the high cost of winter clothing articles. As an example, the Milwaukee County Department of Public Welfare maintains a maximum allowance listing for items of clothing to be purchased by clients which designates an allowance of $10.00 for children ages 6 through 12 and $15.00 for youngsters ages 13 through 18 for a winter coat or jacket. (See attached) Thus, a $12.00 average per pupil for clothing would fall far below the anticipated amount needed for the purchase of basic winter clothing.

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SPECIAL NEEDS - Clothing (Cont'd)

Inventory for Boys 6 and Over	Allowance for Item	
	6 through 12	13 through 18
1 Winter Coat or Jacket	$10.00	$15.00
1 Sweater or Light Jacket	6.00	7.00
3 Shirts	3.00 each	3.00 each
1 Pair Gloves	2.00	2.00
2 Trousers	4.00 each	5.00 each
3 Shorts (Underwear)	.65 "	.75 "
3 Pair Socks	.65 "	.70 "
1 Pair Shoes	7.00	8.00
1 Pair Overshoes	4.00	5.00
1 Cap	1.50	1.50
1 Pajamas	3.00	4.00
1 Belt	2.00	2.00
Inventory for Girls 6 and Over		
1 Winter Coat or Jacket	10.00	15.00
1 Snow Pants or Slacks	5.00	None
1 Sweater or Light Jacket	5.00	8.00
1 Pair Gloves	2.00	2.00
1 Blouse	3.00	3.00
1 Skirt	4.00	6.00
2 Dresses	5.00 each	8.00 each
1 Jeans (dungarees)	3.50	4.00
3 Panties	.60 each	.60 each
1 Slip	2.00	3.00
2 Brassieres (teenagers only) or Girl's Vest	.80 each	2.50 each
3 Pair Socks or Stockings	.70 "	.70 "
1 Pair Shoes	6.00	7.00
1 Pair Overshoes	4.00	5.00
2 Pajamas	3.00 each	4.00 each
1 Scarf or Cap	2.00	2.00
1 Garter Belt	None	2.00
or		
1 Girdle	None	5.00

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Appendix H

DEPARTMENT OF PUBLIC WELFARE
Milwaukee County
JOSEPH E. BALDWIN • Director
ARTHUR SILVERMAN • Deputy Director

December 21, 1970

Mr. Orrin Wang, Director
School Social Work Services
Division of Pupil Personnel
5225 West Vliet Street
P.O. Drawer 10K
Milwaukee, Wisconsin 53201

Dear Mr. Wang:

This is to confirm the administrative costs relative to the Department of Public Welfare involvement in voucher distribution for you under Title I special grant of $50,000.

We have limited the charge to the clerical personnel and materials only with no charging for the caseworker time involved in these transactions in order to insure the maximum amount of money available for distribution.

Clerical manpower to issue and control vouchers	$1330.00
Cost of vouchers	25.00
Clerical manpower to issue and control checks	350.00
Cost of checks	7.00
Mailing charges for vouchers and checks	180.00
Cost of envelopes	8.00
Clerical manpower to liaison between School Board - DPW Caseworker Staff - DPW Administrative Services	100.00
	$2000.00

James P. O'Brien, Supervisor
Bureau of Administrative Services

JOB/dk

cc: R. Piskula
D. Mehring

1220 WEST VLIET STREET • MILWAUKEE, WISCONSIN 53205 • TELEPHONE 344-6400

EDWIN A. MUNDY, Director
[illegible]

BOARD OF PUBLIC WELFARE
WILLIAM F. O'DONNELL, Chairman • WILLIS A. ERASMUS
EDWARD SCHROEDER • [illegible] • [illegible] HEIDENREICH